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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Parts 28, 30, 87, 180, and 3282

[Docket No. FR–6139–F–01]

RIN 2501–AD90

Adjustment of Civil Monetary Penalty Amounts for 2019

AGENCY: Office of the General Counsel, HUD.

ACTION: Final rule.

SUMMARY: This rule provides for 2019 inflation adjustments of civil monetary penalty amounts required by the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015.

DATES: *Effective date for 2019 inflation adjustment:* April 15, 2019.

FOR FURTHER INFORMATION CONTACT: Ariel Pereira, Associate General Counsel, Office of Legislation and Regulations, Department of Housing and Urban Development, 451 7th Street SW, 200, Washington, DC 20024; telephone number 202–402–5138 (this is not a toll-free number). Hearing- or speech-impaired individuals may access this number via TTY by calling the Federal Information Relay Service, toll-free, at 800–877–8339.

SUPPLEMENTARY INFORMATION:

I. Background

The Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (the 2015 Act) (Pub. L. 114–74, Sec. 701), which further amended the Federal Civil Penalties Inflation Adjustment Act of 1990 (Pub. L. 101–410), requires agencies to make annual adjustments to civil monetary penalty (CMP) amounts for inflation ''notwithstanding section 553 of title 5, United States Code.'' Section 553 refers to the Administrative Procedure Act, which provides for advance notice and public comment on rules. However, as explained in Section III below, HUD has determined that advance notice and public comment on this final rule is unnecessary. This annual adjustment is for 2019.

The annual adjustment is based on the percent change between the U.S. Department of Labor's Consumer Price Index for All Urban Consumers (''CPI–U'') for the month of October preceding the date of the adjustment, and the CPI–U for October of the prior year (28 U.S.C. 2461 note, section (5)(b)(1)). Based on that formula, the cost-of-living adjustment multiplier for 2018 is 1.02522.[1] Pursuant to the 2015 Act, adjustments are rounded to the nearest dollar.[2]

II. This Final Rule

This rule makes the required 2019 inflation adjustment of civil penalty amounts. Since HUD is not applying these adjustments retroactively, the 2019 increases apply to violations occurring on or after this rule's effective date. HUD provides a table showing how, for each component, the penalties are being adjusted for 2019 pursuant to the 2015 Act. In the first column (''Description''), HUD provides a description of the penalty. In the second column (''Statutory Citation''), HUD provides the United States Code statutory citation providing for the penalty. In the third column (''Regulatory Citation''), HUD provides the Code of Federal Regulations citation under title 24 for the penalty. In the fourth column (''Previous Amount''), HUD provides the amount of the penalty pursuant to the rule implementing the 2018 adjustment (83 FR 32790, July 16, 2018). In the fifth column (''2019 Adjusted Amount''), HUD lists the penalty after applying the 2019 inflation adjustment.

Description	Statutory citation	Regulatory citation (24 CFR)	Previous amount	2019 adjusted amount
False Claims	Omnibus Budget Reconciliation Act of 1986 (31 U.S.C. 3802(a)(1)).	§ 28.10(a)	$11,181	$11,463.
False Statements	Omnibus Budget Reconciliation Act of 1986 (31 U.S.C. 3802(b)(1)).	§ 28.10(b)	$11,181	$11,463.
Advance Disclosure of Funding.	Department of Housing and Urban Development Act (42 U.S.C. 3537a(c)).	§ 30.20	$19,639	$20,134.
Disclosure of Subsidy Layering.	Department of Housing and Urban Development Act (42 U.S.C. 3545(f)).	§ 30.25	$19,639	$20,134.
FHA Mortgagees and Lenders Violations.	HUD Reform Act of 1989 (12 U.S.C. 1735f–14(a)(2)).	§ 30.35	Per Violation: $9,819 Per Year: $1,963,870	Per Violation: $10,067 Per Year: $2,013,399.
Other FHA Participants Violations.	HUD Reform Act of 1989 (12 U.S.C. 1735f–14(a)(2)).	§ 30.36	Per Violation: $9,819 Per Year: $1,963,870	Per Violation: $10,067 Per Year: $2,013,399.
Indian Loan Mortgagees Violations.	Housing Community Development Act of 1992 (12 U.S.C. 1715z–13a(g)(2)).	§ 30.40	Per Violation: $9,819 Per Year: $1,963,870	Per Violation: $10,067 Per Year: $2,013,399.
Multifamily & Section 202 or 811 Owners Violations.	HUD Reform Act of 1989 (12 U.S.C. 1735f–15(c)(2)).	§ 30.45	$49,096	$50,334.
Ginnie Mae Issuers & Custodians Violations.	HUD Reform Act of 1989 (12 U.S.C. 1723i(b)).	§ 30.50	Per Violation: $9,819 Per Year: $1,963,870	Per Violation: $10,067 Per Year: $2,013,399.

[1] Office of Management and Budget, M–19–04, Memorandum for the Heads of Executive Departments and Agencies, Implementation of Penalty Inflation Adjustments for 2019, Pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015. (*https://www.whitehouse.gov/wp-content/uploads/2017/11/m_19_04.pdf*). (October 2018 CPI–U (252.885)/October 2017 CPI–U (246.663) = 1.02522.)

[2] 28 U.S.C. 2461 note.

Description	Statutory citation	Regulatory citation (24 CFR)	Previous amount	2019 adjusted amount
Title I Broker & Dealers Violations.	HUD Reform Act of 1989 (12 U.S.C. 1703).	§ 30.60	Per Violation: $9,819 ..... Per Year: $1,963,870	Per Violation: $10,067 Per Year: $2,013,399.
Lead Disclosure Violation ..	Title X—Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4852d(b)(1)).	§ 30.65	$17,395	$17,834.
Section 8 Owners Violations.	Multifamily Assisted Housing Reform and Affordability Act of 1997 (42 U.S.C. 1437z–1(b)(2)).	§ 30.68	$38,159	$39,121.
Lobbying Violation	The Lobbying Disclosure Act of 1995 (31 U.S.C. 1352).	§ 87.400	Min: $19,639 ..... Max: $196,387	Min: $20,134 Max: $201,340.
Fair Housing Act Civil Penalties.	Fair Housing Act (42 U.S.C. 3612(g)(3))	§ 180.671(a)	No Priors: $20,521 ..... One Prior: $51,302 ..... Two or More Priors: $102,606.	No Priors: $21,039 One Prior: $52,596 Two or More Priors: $105,194.
Manufactured Housing Regulations Violation.	Housing Community Development Act of 1974 (42 U.S.C. 5410).	§ 3282.10	Per Violation: $2,852 ..... Per Year: $3,565,045	Per Violation: $2,924 Per Year: $3,654,955.

III. Justification for Final Rulemaking for the 2019 Adjustments

HUD generally publishes regulations for public comment before issuing a rule for effect, in accordance with its own regulations on rulemaking in 24 CFR part 10. However, part 10 provides for exceptions to the general rule if the agency finds good cause to omit advanced notice and public participation. The good cause requirement is satisfied when prior public procedure is ''impractical, unnecessary, or contrary to the public interest'' (see 24 CFR 10.1). As discussed, this final rule makes the required 2019 inflation adjustment, which HUD does not have discretion to change. Moreover, the 2015 Act specifies that a delay in the effective date under the Administrative Procedure Act is not required for annual adjustments under the 2015 Act. HUD has determined, therefore, that it is unnecessary to delay the effectiveness of the 2019 inflation adjustments to solicit public comments.

Section 7(o) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(o)) requires that any HUD regulation implementing any provision of the Department of Housing and Urban Development Reform Act of 1989 that authorizes the imposition of a civil money penalty may not become effective until after the expiration of a public comment period of not less than 60 days. This rule does not authorize the imposition of a civil money penalty—rather, it makes a standard inflation adjustment to penalties that were previously authorized. As noted above, the 2019 inflation adjustments are made in accordance with a statutorily prescribed formula that does not provide for agency discretion. Accordingly, a delay in the effectiveness of the 2019 inflation adjustments in order to provide the public with an opportunity to comment is unnecessary because the 2015 Act exempts the adjustments from the need for delay, the rule does not authorize the imposition of a civil money penalty, and, in any event, HUD would not have the discretion to make changes as a result of any comments.

IV. Findings and Certifications

Regulatory Review—Executive Orders 12866 and 13563

Under Executive Order 12866 (Regulatory Planning and Review), a determination must be made whether a regulatory action is significant and, therefore, subject to review by the Office of Management and Budget (OMB) in accordance with the requirements of the order. Executive Order 13563 (Improving Regulations and Regulatory Review) directs executive agencies to analyze regulations that are ''outmoded, ineffective, insufficient, or excessively burdensome, and to modify, streamline, expand, or repeal them in accordance with what has been learned.'' Executive Order 13563 also directs that, where relevant, feasible, and consistent with regulatory objectives, and to the extent permitted by law, agencies are to identify and consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public. Executive Order 13771 (Reducing Regulation and Controlling Regulatory Costs) requires that for every new regulation issued, at least two prior regulations be identified for removal, and that the cost of planned regulations be prudently managed and controlled through a budgeting process. As discussed above in this preamble, this final rule adjusts existing civil monetary penalties for inflation by a statutorily required amount.

HUD determined that this rule was not significant under Executive Order 12866 and Executive Order 13563. Moreover, as this rule is not a significant regulatory action under Executive Order 12866, it is not considered an Executive Order 13771 regulatory action.

Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Because HUD has determined that good cause exists to issue this rule without prior public comment, this rule is not subject to the requirement to publish an initial or final regulatory flexibility analysis under the RFA as part of such action.

Unfunded Mandates Reform

Section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA) [3] requires that an agency prepare a budgetary impact statement before promulgating a rule that 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. If a budgetary impact statement is required, section 205 of UMRA also requires an agency to identity and consider a reasonable number of regulatory alternatives before promulgating a rule.[4] However, the UMRA applies only to rules for which an agency publishes a general notice of proposed rulemaking. As discussed

[3] 2 U.S.C. 1532.

[4] 2 U.S.C. 1534.

above, HUD has determined, for good cause, that prior notice and public comment is not required on this rule and, therefore, the UMRA does not apply to this final rule.

Executive Order 13132, Federalism

Executive Order 13132 (entitled ''Federalism'') prohibits an agency from publishing any rule that has federalism implications if the rule either imposes substantial direct compliance costs on State and local governments and is not required by statute, or the rule preempts State law, unless the agency meets the consultation and funding requirements of section 6 of the Executive Order. This rule will not have federalism implications and would not impose substantial direct compliance costs on State and local governments or preempt State law within the meaning of the Executive order.

Environmental Review

This final rule does not direct, provide for assistance or loan and mortgage insurance for, or otherwise govern, or regulate, real property acquisition, disposition, leasing, rehabilitation, alteration, demolition, or new construction, or establish, revise, or provide for standards for construction or construction materials, manufactured housing, or occupancy. Accordingly, under 24 CFR 50.19(c)(1), this final rule is categorically excluded from environmental review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321).

List of Subjects

24 CFR Part 28

Administrative practice and procedure, Claims, Fraud, Penalties.

24 CFR Part 30

Administrative practice and procedure, Grant programs-housing and community development, Loan programs-housing and community development, Mortgage insurance, Penalties.

24 CFR Part 87

Government contracts, Grant programs, Loan programs, Lobbying, Penalties, Reporting and recordkeeping requirements.

24 CFR Part 180

Administrative practice and procedure, Aged, Civil rights, Fair housing, Individuals with disabilities, Investigations, Mortgages, Penalties, Reporting and recordkeeping requirements.

24 CFR Part 3282

Administrative practice and procedure, Consumer protection, Intergovernmental relations, Manufactured homes, Reporting and recordkeeping requirements.

Accordingly, for the reasons described in the preamble, HUD amends 24 CFR parts 28, 30, 87, 180, and 3282 to read as follows:

PART 28—IMPLEMENTATION OF THE PROGRAM FRAUD CIVIL REMEDIES ACT OF 1986

■ 1. The authority citation for part 28 continues to read as follows:

Authority: 28 U.S.C. 2461 note; 31 U.S.C. 3801–3812; 42 U.S.C. 3535(d).

■ 2. In § 28.10, revise the introductory text of paragraphs (a)(1) and (b)(1) to read as follows:

§ 28.10 Basis for civil penalties and assessments.

(a) *Claims.* (1) A civil penalty of not more than $11,463 may be imposed upon any person who makes, presents, or submits, or causes to be made, presented, or submitted, a claim that the person knows or has reason to know:

* * * * *

(b) *Statements.* (1) A civil penalty of not more than $11,463 may be imposed upon any person who makes, presents, or submits, or causes to be made, presented, or submitted, a written statement that:

* * * * *

PART 30—CIVIL MONEY PENALTIES: CERTAIN PROHIBITED CONDUCT

■ 3. The authority citation for part 30 continues to read as follows:

Authority: 12 U.S.C. 1701q–1, 1703, 1723i, 1735f–14, and 1735f–15; 15 U.S.C. 1717a; 28 U.S.C. 1 note and 2461 note; 42 U.S.C. 1437z–1 and 3535(d).

■ 4. In § 30.20, revise paragraph (b) to read as follows:

§ 30.20 Ethical violations by HUD employees.

* * * * *

(b) *Maximum penalty.* The maximum penalty is $20,134 for each violation.

■ 5. In § 30.25, revise paragraph (b) to read as follows:

§ 30.25 Violations by applicants for assistance.

* * * * *

(b) *Maximum penalty.* The maximum penalty is $20,134 for each violation.

■ 6. In § 30.35, revise the first sentence in paragraph (c)(1) to read as follows:

§ 30.35 Mortgagees and lenders.

* * * * *

(c)(1) *Amount of penalty.* The maximum penalty is $10,067 for each violation, up to a limit of $2,013,399 for all violations committed during any one-year period. * * *

* * * * *

■ 7. In § 30.36, revise the first sentence in paragraph (c) to read as follows:

§ 30.36 Other participants in FHA programs.

* * * * *

(c) *Amount of penalty.* The maximum penalty is $10,067 for each violation, up to a limit of $2,013,399 for all violations committed during any one-year period. * * *

■ 8. In § 30.40, revise the first sentence in paragraph (c) to read as follows:

§ 30.40 Loan guarantees for Indian housing.

* * * * *

(c) *Amount of penalty.* The maximum penalty is $10,067 for each violation, up to a limit of $2,013,399 for all violations committed during any one-year period. * * *

■ 9. In § 30.45, revise paragraph (g) to read as follows:

§ 30.45 Multifamily and section 202 or 811 mortgagors.

* * * * *

(g) *Maximum penalty.* The maximum penalty for each violation under paragraphs (c) and (f) of this section is $50,334.

* * * * *

■ 10. In § 30.50, revise the first sentence in paragraph (c) to read as follows:

§ 30.50 GNMA issuers and custodians.

* * * * *

(c) *Amount of penalty.* The maximum penalty is $10,067 for each violation, up to a limit of $2,013,399 during any one-year period. * * *

■ 11. In § 30.60, revise paragraph (c) to read as follows:

§ 30.60 Dealers or sponsored third-party originators.

* * * * *

(c) *Amount of penalty.* The maximum penalty is $10,067 for each violation, up to a limit for any particular person of $2,013,399 during any one-year period.

■ 12. In § 30.65, revise paragraph (b) to read as follows:

§ 30.65 Failure to disclose lead-based paint hazards.

* * * * *

(b) *Amount of penalty.* The maximum penalty is $17,834 for each violation

■ 13. In § 30.68, revise paragraph (c) to read as follows:

§ 30.68 Section 8 owners.

* * * * *

(c) *Maximum penalty.* The maximum penalty for each violation under this section is $39,121.

* * * * *

PART 87—NEW RESTRICTIONS ON LOBBYING

■ 14. The authority citation for part 87 continues to read as follows:

Authority: 28 U.S.C. 1 note; 31 U.S.C. 1352; 42 U.S.C. 3535(d).

■ 15. In § 87.400, revise paragraphs (a), (b), and (e) to read as follows:

§ 87.400 Penalties.

(a) Any person who makes an expenditure prohibited herein shall be subject to a civil penalty of not less than $20,134 and not more than $201,340 for each such expenditure.

(b) Any person who fails to file or amend the disclosure form (see appendix B of this part) to be filed or amended if required herein, shall be subject to a civil penalty of not less than $20,134 and not more than $201,340 for each such failure.

* * * * *

(e) First offenders under paragraph (a) or (b) of this section shall be subject to a civil penalty of $20,134, absent aggravating circumstances. Second and subsequent offenses by persons shall be subject to an appropriate civil penalty between $20,134 and $201,340 as determined by the agency head or his or her designee.

* * * * *

PART 180—CONSOLIDATED HUD HEARING PROCEDURES FOR CIVIL RIGHTS MATTERS

■ 16. The authority citation for part 180 continues to read as follows:

Authority: 28 U.S.C. 1 note; 29 U.S.C. 794; 42 U.S.C. 2000d–1, 3535(d), 3601–3619, 5301–5320, and 6103.

■ 17. In § 180.671, revise paragraphs (a)(1) through (3) to read as follows:

§ 180.671 Assessing civil penalties for Fair Housing Act cases.

(a) * * *

(1) $21,039, if the respondent has not been adjudged in any administrative hearing or civil action permitted under the Fair Housing Act or any state or local fair housing law, or in any licensing or regulatory proceeding conducted by a federal, state, or local governmental agency, to have committed any prior discriminatory housing practice.

(2) $52,596, if the respondent has been adjudged in any administrative hearing or civil action permitted under the Fair Housing Act, or under any state or local fair housing law, or in any licensing or regulatory proceeding conducted by a federal, state, or local government agency, to have committed one other discriminatory housing practice and the adjudication was made during the 5-year period preceding the date of filing of the charge.

(3) $105,194, if the respondent has been adjudged in any administrative hearings or civil actions permitted under the Fair Housing Act, or under any state or local fair housing law, or in any licensing or regulatory proceeding conducted by a federal, state, or local government agency, to have committed two or more discriminatory housing practices and the adjudications were made during the 7-year period preceding the date of filing of the charge.

* * * * *

PART 3282—MANUFACTURED HOME PROCEDURAL AND ENFORCEMENT REGULATIONS

■ 18. The authority citation for part 3282 is revised to read as follows:

Authority: 28 U.S.C. 1 note; 28 U.S.C. 2461 note; 42 U.S.C. 3535(d) and 5424.

■ 19. Revise § 3282.10 to read as follows:

§ 3282.10 Civil and criminal penalties.

Failure to comply with this part may subject the party in question to the civil and criminal penalties provided for in section 611 of the Act, 42 U.S.C. 5410. The maximum amount of penalties imposed under section 611 of the Act shall be $2,924 for each violation, up to a maximum of $3,654,955 for any related series of violations occurring within one year from the date of the first violation.

Dated: March 12, 2019.

J. Paul Compton, Jr.,

General Counsel.

[FR Doc. 2019–04898 Filed 3–14–19; 8:45 am]

BILLING CODE 4210–67–P

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Parts 4022 and 4044

Allocation of Assets in Single-Employer Plans; Benefits Payable in Terminated Single-Employer Plans; Interest Assumptions for Valuing and Paying Benefits

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: This final rule amends the Pension Benefit Guaranty Corporation's regulations on Benefits Payable in Terminated Single-Employer Plans and Allocation of Assets in Single-Employer Plans to prescribe certain interest assumptions under the benefit payments regulation for plans with valuation dates in April 2019 and interest assumptions under the asset allocation regulation for plans with valuation dates in the second quarter of 2019. These interest assumptions are used for valuing benefits and paying certain benefits under terminating single-employer plans covered by the pension insurance system administered by PBGC.

DATES: Effective April 1, 2019.

FOR FURTHER INFORMATION CONTACT: Melissa Rifkin (*rifkin.melissa@PBGC.gov*), Attorney, Regulatory Affairs Division, Pension Benefit Guaranty Corporation, 1200 K Street NW, Washington, DC 20005, 202–326–4400, ext. 6563. (TTY users may call the Federal relay service toll free at 1–800–877–8339 and ask to be connected to 202–326–4400, ext. 6563.)

SUPPLEMENTARY INFORMATION: PBGC's regulations on Allocation of Assets in Single-Employer Plans (29 CFR part 4044) and Benefits Payable in Terminated Single-Employer Plans (29 CFR part 4022) prescribe actuarial assumptions—including interest assumptions—for valuing and paying plan benefits under terminating single-employer plans covered by title IV of the Employee Retirement Income Security Act of 1974 (ERISA). The interest assumptions in the regulations are also published on PBGC's website (*http://www.pbgc.gov*).

Lump Sum Interest Assumption

PBGC uses the interest assumptions in appendix B to part 4022 (''Lump Sum Interest Rates for PBGC Payments'') to determine whether a benefit is payable as a lump sum and to determine the amount to pay as a lump sum. Because some private-sector pension plans use these interest rates to determine lump sum amounts payable to plan

participants (if the resulting lump sum is larger than the amount required under section 417(e)(3) of the Internal Revenue Code and section 205(g)(3) of ERISA), these rates are also provided in appendix C to part 4022 (''Lump Sum Interest Rates for Private-Sector Payments'').

This final rule updates appendices B and C of the benefit payments regulation to provide the rates for April 2019 measurement dates.

The April 2019 lump sum interest assumptions will be 1.25 percent for the period during which a benefit is (or is assumed to be) in pay status and 4.00 percent during any years preceding the benefit's placement in pay status. In comparison with the interest assumptions in effect for March 2019, these assumptions represent no change in the immediate rate and are otherwise unchanged.

Valuation/Asset Allocation Interest Assumptions

PBGC uses the interest assumptions in appendix B to part 4044 (''Interest Rates Used to Value Benefits'') to value benefits for allocation purposes under section 4044 of ERISA, and some private-sector pension plans use them to determine benefit liabilities reportable under section 4044 of ERISA and for other purposes. The second quarter 2019 interest assumptions will be 3.07 percent for the first 20 years following the valuation date and 3.05 percent thereafter. In comparison with the interest assumptions in effect for the first quarter of 2019, these interest assumptions represent no change in the select period (the period during which the select rate (the initial rate) applies), a decrease of 0.02 percent in the select rate, and an increase of 0.21 percent in the ultimate rate (the final rate).

Need for Immediate Guidance

PBGC updates appendix B of the asset allocation regulation each quarter and appendices B and C of the benefit payments regulation each month. PBGC has determined that notice and public comment on this amendment are impracticable and contrary to the public interest. This finding is based on the need to issue new interest assumptions promptly so that they are available to value benefits and, for plans that rely on our publication of them each month or each quarter, to calculate lump sum benefit amounts.

Because of the need to provide immediate guidance for the valuation and payment of benefits under plans with valuation dates during April 2019, PBGC finds that good cause exists for making the assumptions set forth in this amendment effective less than 30 days after publication.

PBGC has determined that this action is not a ''significant regulatory action'' under the criteria set forth in Executive Order 12866.

Because no general notice of proposed rulemaking is required for this amendment, the Regulatory Flexibility Act of 1980 does not apply. See 5 U.S.C. 601(2).

List of Subjects

29 CFR Part 4022

Employee benefit plans, Pension insurance, Pensions, Reporting and recordkeeping requirements.

29 CFR Part 4044

Employee benefit plans, Pension insurance, Pensions.

In consideration of the foregoing, 29 CFR parts 4022 and 4044 are amended as follows:

PART 4022—BENEFITS PAYABLE IN TERMINATED SINGLE-EMPLOYER PLANS

■ 1. The authority citation for part 4022 continues to read as follows:

Authority: 29 U.S.C. 1302, 1322, 1322b, 1341(c)(3)(D), and 1344.

■ 2. In appendix B to part 4022, Rate Set 306 is added at the end of the table to read as follows:

Appendix B to Part 4022—Lump Sum Interest Rates for PBGC Payments

* * * * *

Rate set	For plans with a valuation date		Immediate annuity rate (percent)	Deferred annuities (percent)				
	On or after	Before		i_1	i_2	i_3	n_1	n_2
*	*		*	*	*	*		*
306	4–1–19	5–1–19	1.25	4.00	4.00	4.00	7	8

■ 3. In appendix C to part 4022, Rate Set 306 is added at the end of the table to read as follows:

Appendix C to Part 4022—Lump Sum Interest Rates for Private-Sector Payments

* * * * *

Rate set	For plans with a valuation date		Immediate annuity rate (percent)	Deferred annuities (percent)				
	On or after	Before		i_1	i_2	i_3	n_1	n_2
*	*		*	*	*	*		
306	4–1–19	5–1–19	1.25	4.00	4.00	4.00	7	8

PART 4044—ALLOCATION OF ASSETS IN SINGLE-EMPLOYER PLANS

■ 4. The authority citation for part 4044 continues to read as follows:

Authority: 29 U.S.C. 1301(a), 1302(b)(3), 1341, 1344, 1362.

■ 5. In appendix B to part 4044, an entry for ''April–June 2019'' is added at the end of the table to read as follows:

Appendix B to Part 4044—Interest Rates Used To Value Benefits

* * * * *

For valuation dates occurring in the month—	The values of i_t are:					
	i_t	for t =	i_t	for t =	i_t	for t =
* * *	*		*	*		*
April–June 2019	0.0307	1–20	0.0305	>20	N/A	N/A

Issued in Washington, DC, by

Hilary Duke,

Assistant General Counsel, Pension Benefit Guaranty Corporation.

[FR Doc. 2019–04740 Filed 3–14–19; 8:45 am]

BILLING CODE 7709–02–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

31 CFR Parts 561 and 566

List of Foreign Financial Institutions Subject to Correspondent Account or Payable-Through Account Sanctions (CAPTA List)

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Final rule; technical amendments.

SUMMARY: The Department of the Treasury's Office of Foreign Assets Control (OFAC) is amending the Iranian Financial Sanctions Regulations (IFSR) and the Hizballah Financial Sanctions Regulations (HFSR) to incorporate references to the new List of Foreign Financial Institutions Subject to Correspondent Account or Payable-Through Account Sanctions (CAPTA List).

DATES: *Effective:* March 15, 2019.

FOR FURTHER INFORMATION CONTACT: OFAC: Assistant Director for Licensing, tel.: 202–622–2480; Assistant Director for Regulatory Affairs, tel.: 202–622–4855; Assistant Director for Sanctions Compliance & Evaluation, tel.: 202–622–2490; or the Department of the Treasury's Office of the Chief Counsel (Foreign Assets Control), Office of the General Counsel, tel.: 202–622–2410.

SUPPLEMENTARY INFORMATION:

Electronic Availability

This document and additional information concerning OFAC are available from OFAC's website (*www.treasury.gov/ofac*).

Background

Pursuant to a number of sanctions authorities, the Secretary of the Treasury may impose strict conditions or prohibitions on the opening or maintaining of correspondent or payable-through accounts in the United States (collectively, ''correspondent or payable-through account sanctions'') for a foreign financial institution (FFI) that the Secretary determines knowingly engages in specified transactions. As a general matter, the Secretary of the Treasury further delegates these authorities to the Director of OFAC.

With respect to the first two such authorities established, OFAC created separate sanctions lists to identify FFIs subject to correspondent or payable-through account sanctions. Specifically, §§ 561.201 and 561.203 of the IFSR (31 CFR part 561) provide that, upon a finding by the Secretary of the Treasury that an FFI knowingly engages in one or more of the activities described in § 561.201(a) or § 561.203(a), the Secretary of the Treasury will impose correspondent or payable-through account sanctions on the FFI. Notes to §§ 561.201(b) and 561.203(a) further clarify that the name of the FFI and the relevant prohibition or strict condition(s) will be added to the List of Foreign Financial Institutions Subject to Part 561 List (Part 561 List) on the Iran sanctions page on OFAC's website (*www.treasury.gov/ofac*) and published in the **Federal Register**. As of March 14, 2019, there was one FFI on the Part 561 List.

Similarly, § 566.201 of the HFSR provides that, upon a finding by the Secretary of the Treasury that an FFI knowingly engages in one or more of the activities described in § 566.201(a), the Secretary of the Treasury will impose correspondent or payable-through account sanctions on the FFI. A note to § 566.201(c) further explains that the name of the FFI and the relevant prohibition or strict condition(s) will be added to the HFSR List on the Counter Terrorism Sanctions web page on OFAC's website (*www.treasury.gov/ofac*) and published in the **Federal Register**. As of March 14, 2019, there was no HFSR List on the OFAC website because no FFI has been listed pursuant to the HFSR.

Additional sanctions authorities provide for correspondent or payable-through account sanctions, including the Ukraine Freedom Support Act of 2014, as amended (UFSA), and Executive Order 13810 of September 20, 2017 (''Imposing Additional Sanctions With Respect to North Korea'') (82 FR 44705, September 25, 2017), as implemented in the North Korea Sanctions Regulations, 31 CFR part 510 (NKSR). In order to avoid potential confusion resulting from multiple OFAC lists addressing similar sanctions, on March 1, 2018, OFAC announced on its website the creation of a consolidated list, the List of Foreign Financial Institutions Subject to Correspondent Account or Payable-Through Account Sanctions (CAPTA List), which would list any FFI subject to correspondent or payable-through account sanctions pursuant to UFSA or the NKSR, as well as the relevant prohibition or strict condition(s). Also on March 1, 2018, OFAC stated that the CAPTA List eventually would be expanded to include FFIs subject to correspondent or payable-through account sanctions pursuant to additional authorities, including the IFSR and the HFSR. As of March 14, 2019, the CAPTA List did not include any FFIs subject to correspondent or payable-through account sanctions under UFSA or the NKSR because OFAC has not identified any such FFIs.

This rule amends the IFSR and the HFSR to replace 14 references to the Part 561 List and seven references to the HFSR List, respectively, with references to the CAPTA List. OFAC also is making a conforming change in the IFSR and the HFSR to the location on OFAC's website for the CAPTA List.

On March 15, 2019, by separate action, OFAC is expanding the CAPTA List on the OFAC website to include FFIs subject to correspondent or payable-through account sanctions pursuant to the IFSR and the HFSR. As part of this change, OFAC will move the name of the FFI on the Part 561 List, along with the relevant prohibition or strict condition(s) to which the FFI is subject, to the CAPTA List. The CAPTA List will thus supersede the Part 561 List in its entirety, and the Part 561 List will be removed from OFAC's website. Following the publication of this rule, unless otherwise specified, the names of any FFIs that are determined by the Secretary of the Treasury to be subject to correspondent or payable-through account sanctions will be placed on the CAPTA List. The CAPTA List will be accessible via OFAC's website and

updates to the list will be published on OFAC's website and in the **Federal Register**.

Public Participation

Because the amendment of the IFSR and HFSR involves a foreign affairs function, the provisions of Executive Order 12866 and the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, opportunity for public participation, and delay in effective date, as well as the provisions of Executive Order 13771, are inapplicable. Because no notice of proposed rulemaking is required for this rule, the Regulatory Flexibility Act (5 U.S.C. 601–612) does not apply.

Paperwork Reduction Act

With respect to section 2 (44 U.S.C. 3507) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), the collection of information in § 561.601 of the IFSR is made pursuant to OFAC's Reporting, Procedures and Penalties Regulations, 31 CFR part 501 (RPPR), and has been approved by the Office of Management and Budget (OMB) under control number 1505–0164. The collection of information in § 561.504 of the IFSR has been approved by OMB under control number 1505–0243.

The collection of information in § 566.601 of the HFSR is made pursuant to the RPPR and has been approved by OMB under control number 1505–0164. The collection of information in § 566.504(b) of the HFSR has been approved by OMB under control number 1505–0255. With respect to all of the foregoing collections of information, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number.

List of Subjects

31 CFR Part 561

Administrative practice and procedure, Banks, Banking, Blocking of assets, Correspondent account sanctions, Credit, Foreign financial institutions, Foreign Trade, Iran, Penalties, Reporting and recordkeeping requirements, Securities, Services.

31 CFR Part 566

Administrative practice and procedure, Banks, Banking, Blocking of assets, Correspondent account sanctions, Credit, Foreign financial institutions, Foreign Trade, Hizballah, Penalties, Reporting and recordkeeping requirements, Securities, Services.

Authority and Issuance

For the reasons set forth in the preamble, the Department of the Treasury's Office of Foreign Assets Control amends 31 CFR parts 561 and 566 as follows:

PART 561—IRANIAN FINANCIAL SANCTIONS REGULATIONS

■ 1. The authority citation for part 561 is revised to read as follows:

Authority: 3 U.S.C. 301; 31 U.S.C. 321(b); 50 U.S.C. 1601–1651, 1701–1706; Pub. L. 101–410, 104 Stat. 890 (28 U.S.C. 2461 note); Pub. L. 110–96, 121 Stat. 1011 (50 U.S.C. 1705 note); Pub. L. 111–195, 124 Stat. 1312 (22 U.S.C. 8501–8551); Pub. L. 112–81, 125 Stat. 1298 (22 U.S.C. 8513a); Pub. L. 112–158, 126 Stat. 1214 (22 U.S.C. 8701–8795); E.O. 12957, 60 FR 14615, 3 CFR, 1995 Comp., p. 332; E.O. 13553, 75 FR 60567, 3 CFR, 2010 Comp., p. 253; E.O. 13599, 77 FR 6659, 3 CFR, 2012 Comp., p. 215; E.O. 13622, 77 FR 45897, 3 CFR, 2012 Comp., p. 290; E.O. 13628, 77 FR 62139, 3 CFR, 2012 Comp., p. 314.

Subpart B—Prohibitions

§ 561.201 [Amended]

■ 2. Amend § 561.201 as follows:
■ a. In the last sentence of the introductory text, remove ''List of Foreign Financial Institutions Subject to Part 561 (the ''Part 561 List'')'' and add in its place ''List of Foreign Financial Institutions Subject to Correspondent Account or Payable-Through Account Sanctions (CAPTA List)'', and remove ''on the Iran Sanctions page'';
■ b. In the note to paragraph (b), remove ''Part 561 List'' and add in its place ''CAPTA List'', and remove ''on the Iran Sanctions page'';
■ c. In the note to paragraph (c), remove ''Part 561 List'' and add in its place ''CAPTA List'', and remove ''on the Iran Sanctions page''; and
■ d. In the note to § 561.201, in the introductory text and paragraph (4), remove ''Part 561 List'' and add in its place in both locations ''CAPTA List''.

§ 561.203 [Amended]

■ 3. Amend § 561.203 as follows:
■ a. In note 2 to paragraph (a), remove ''List of Foreign Financial Institutions Subject to Part 561 (the ''Part 561 List'')'' and add in its place ''List of Foreign Financial Institutions Subject to Correspondent Account or Payable-Through Account Sanctions (CAPTA List)'', and remove ''on the Iran Sanctions page'';
■ b. In paragraph (j)(4), remove ''List of Foreign Financial Institutions Subject to Part 561 (the ''Part 561 List'')'' and add in its place ''List of Foreign Financial Institutions Subject to Correspondent Account or Payable-Through Account Sanctions (CAPTA List)'', and remove ''on the Iran Sanctions page''; and
■ c. In paragraph (k)(6), remove ''Part 561 List'' and add in its place ''CAPTA List''.

§ 561.204 [Amended]

■ 4. In note 1 to paragraph (a), remove ''List of Foreign Financial Institutions Subject to Part 561 (the ''Part 561 List'')'' and add in its place ''List of Foreign Financial Institutions Subject to Correspondent Account or Payable-Through Account Sanctions (CAPTA List)'', and remove ''on the Iran Sanctions page''.

Subpart E—Licenses, Authorizations, and Statements of Licensing Policy

§ 561.504 [Amended]

■ 5. Amend § 561.504 as follows:
■ a. In paragraph (a) introductory text, remove ''Part 561 List'' and add in its place ''List of Foreign Financial Institutions Subject to Correspondent Account or Payable-Through Account Sanctions (CAPTA List)'', and remove ''on the Iran Sanctions page'';
■ b. In paragraph (b), remove ''Part 561 List'' and add in its place ''CAPTA List'', and remove ''on the Iran Sanctions page'';
■ c. In paragraph (c), remove ''Part 561 List'' and add in its place ''CAPTA List'';
■ d. In paragraph (d), remove ''Part 561 List'' and add in its place ''CAPTA List''; and
■ e. In the note to § 561.504, remove ''Part 561 List'' and add in its place ''CAPTA List'', and remove ''on the Iran Sanctions page''.

PART 566—HIZBALLAH FINANCIAL SANCTIONS REGULATIONS

■ 6. The authority citation for part 566 is revised to read as follows:

Authority: 3 U.S.C. 301; 31 U.S.C. 321(b); 50 U.S.C. 1601–1651, 1701–1706; Pub. L. 101–410, 104 Stat. 890 (28 U.S.C. 2461 note); Pub. L. 110–96, 121 Stat. 1011 (50 U.S.C. 1705 note); Pub. L. 114–102, 129 Stat. 2205 (50 U.S.C. 1701 note).

Subpart B—Prohibitions

§ 566.201 [Amended]

■ 7. Amend § 566.201 as follows:
■ a. In the note to paragraph (b), remove ''HFSR List'' and add in its place ''List of Foreign Financial Institutions Subject to Correspondent Account or Payable-Through Account Sanctions (CAPTA List)'', and remove ''on the Counter Terrorism Sanctions page''; and
■ b. In the note to paragraph (c), remove ''HFSR List'' and add in its place

''CAPTA List'', and remove ''on the Counter Terrorism Sanctions page''.

Subpart E—Licenses, Authorizations, and Statements of Licensing Policy

§ 566.504 [Amended]

■ 8. Amend § 566.504 as follows:

■ a. In paragraph (a) introductory text, remove ''in the HFSR List'' and add in its place ''on the List of Foreign Financial Institutions Subject to Correspondent Account or Payable-Through Account Sanctions (CAPTA List)'';

■ b. In paragraph (b), remove ''HFSR List'' and add in its place ''CAPTA List'', and remove ''on the Hizballah Sanctions page'';

■ c. In paragraph (c), remove ''HFSR List'' and add in its place ''CAPTA List'';

■ d. In paragraph (d), remove ''HFSR List'' and add in its place ''CAPTA List''; and

■ e. In the note to § 566.504, remove ''HFSR List'' and add in its place ''CAPTA List'', and remove ''on the Counter Terrorism Sanctions page''.

Dated: March 12, 2019.

Andrea Gacki,

Director, Office of Foreign Assets Control.

[FR Doc. 2019–04842 Filed 3–14–19; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 110

[Docket Number USCG–2018–0388]

RIN 1625–AA01

Anchorage Ground; Sabine Pass, TX

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is amending the anchorage regulations for the Sabine Pass Channel, Sabine Pass, TX anchorage ground for the navigational safety of vessels entering and exiting a new liquefied natural gas terminal mooring basin being constructed on the eastern waterfront of the Sabine Pass Channel. This amendment will reduce the overall size of the existing anchorage.

DATES: This rule is effective April 15, 2019.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov,* type USCG–2018–0388 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 K. 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
DHS Department of Homeland Security
FR Federal Register
LNG Liquefied natural gas
NPRM Notice of proposed rulemaking
§ Section
U.S.C. United States Code

II. Background Information and Regulatory History

On June 15, 2018, we published a notice of inquiry requesting public comments in response to Sabine Pass LNG's request to disestablish the anchorage ground titled Anchorage Ground, Sabine Pass, TX (83 FR 27932). The Coast Guard received three comments in response to that notice of inquiry.

On December 21, 2018, we published a notice of proposed rulemaking (NPRM) entitled Anchorage Ground; Sabine Pass, TX in the **Federal Register** (83 FR 65609). No public meeting was requested and none was held. Additionally, no comments concerning the proposed rule were received.

III. Legal Authority and Need for Rule

The Coast Guard is amending 33 CFR 110.196 under the authority in 33 U.S.C. 471. This amendment reduces the overall dimensions of the Sabine Pass Channel anchorage ground. This action will provide for the safe navigation of vessels entering and exiting Cheniere Energy's new vessel berth while retaining a portion of the anchorage for use by those vessels that continue to use the anchorage grounds.

IV. Discussion of Comments, Changes, and the Rule

As noted above, we received no comments on our NPRM published December 21, 2018. There are no changes in the regulatory text of this rule from the proposed rule in the NPRM.

As discussed in the NPRM, this amendment reduces the overall dimensions of Sabine Pass anchorage ground. Coordinates identifying the anchorage ground's new boundaries appear in the regulatory text at the end of this document.

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.

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 current information, which indicates that the anchorage ground is rarely used, and that the overall reduction in anchorage area will not significantly impact those vessels desiring to use the anchorage.

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 operations of vessels intending to use the anchorage may be small entities, for the reasons state 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 the reduction in size of an anchorage ground. It is categorically excluded from further review under paragraph L59(b) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 01.

List of Subjects in 33 CFR Part 110

Anchorage grounds.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 110 as follows:

PART 110—ANCHORAGE REGULATIONS

■ 1. The authority citation for part 110 continues to read as follows:

Authority: 33 U.S.C. 471; 33 CFR 1.05–1; Department of Homeland Security Delegation No. 0170.1.

■ 2. In § 110.196, revise paragraph (a) to read as follows:

§ 110.196 Sabine Pass Channel, Sabine Pass, TX.

(a) *The anchorage area.* The water bounded by a line connecting the following coordinates:

Latitude	Longitude
29°43′59.0″ N	93°52′08.1″ W
29°44′06.8″ N	93°51′57.6″ W
29°43′53.0″ N	93°51′47.1″ W
29°43′36.7″ N	93°51′50.9″ W

* * * * *

Dated: February 15, 2019.

Paul F. Thomas,

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

[FR Doc. 2019–04875 Filed 3–14–19; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2019–0086]

Drawbridge Operation Regulation; Hackensack River, Little Snake Hill, NJ

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary deviation from regulations; request for comments.

SUMMARY: The Coast Guard is issuing a temporary deviation from the operating schedule that governs the Amtrak Portal Bridge across the Hackensack River, mile 5.0, at Little Snake Hill, New Jersey. This deviation will test a change to the drawbridge operation schedule to determine whether a permanent change to the schedule is needed. The Coast Guard is seeking comments from the public about the impact to both train and vessel traffic generated by this change.

DATES: This deviation is effective without actual notice from March 15, 2019 through 11:59 p.m. on September 9, 2019. For the purposes of enforcement, actual notice will be used from 12:01 a.m. on March 14, 2019, until March 15, 2019.

Comments and related material must be received by the Coast Guard on or before July 12, 2019.

ADDRESSES: You may submit comments identified by docket number USCG–2019–0086 using Federal eRulemaking Portal at *http://www.regulations.gov*.

See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section below for instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary deviation, call or email Judy K. Leung-Yee, Project Officer, First Coast Guard District; telephone 212–514–4336, email *Judy.K.Leung-Yee@uscg.mil*.

SUPPLEMENTARY INFORMATION:

Table of Abbreviations

CFR Code of Federal Regulations
DHS Department of Homeland Security
FR Federal Register

I. Background, Purpose and Legal Basis

In a letter to the Coast Guard, dated December 4, 2018, The National Railroad Passenger Corporation (Amtrak) requested to change operating requirements for the Amtrak's Portal Bridge across the Hackensack River, mile 5.0, at Little Snake Hill, New

Jersey. The existing drawbridge operating regulations are listed at 33 CFR 117.723(e). In their request, Amtrak provided the Coast Guard with bridge opening logs from 2011 to 2018, which showed that the number of bridge openings declined significantly since 2016 rush hour train traffic increased during the same period, arguing that the decreased demand for bridge openings and increased train traffic enabled modifications to the bridge's special operating regulation. The Coast Guard collected stakeholder feedback regarding a proposed change to the bridge's schedule via a December 13, 2018 public notice and a conference call on February 7, 2019. This 180 day temporary deviation to the regulation will allow the Coast Guard, waterway stakeholders, and the bridge owner to collect vessel traffic and other data to assess the impact of changing the bridge's operating schedule.

The Amtrak Portal Bridge is a swing bridge with a vertical clearance of 23 feet at mean high water and 28 feet at mean low water in the closed position. The waterway users are seasonal recreational vessels and commercial vessels of various sizes. The 2017 and 2018 bridge logs indicated the number of bridge openings during rush hour have become minimal (one or two vessels per month), however, most of the waterway vessel traffic requires high tide when transiting under the bridge and needs an opportunity during rush hour for possible openings.

The Coast Guard is publishing this temporary deviation to test the proposed change to the bridge's operating schedule and determine whether a permanent change to the schedule is necessary to better balance the needs of marine and rail traffic.

Under this deviation, in effect from 12:01 a.m. on March 14, 2019, to 11:59 p.m. on September 9, 2019, the Amtrak Portal Bridge need not open for the passage of vessel traffic from 5 a.m. to 10 a.m. and from 3 p.m. to 8 p.m. Additional bridge openings shall be provided for tide restricted commercial vessels between 7 a.m. and 8 a.m. and between 5 p.m. and 6 p.m., if at least a two-hour advance notice is given by calling the number posted at the bridge. At all other times the bridge shall open on signal if at least two-hour advance notice is given.

Vessels able to pass through the bridge in the closed position may do so at any time. There are no alternate routes. The bridge will be able to open for emergencies.

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

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

II. 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 *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 notification as being available in this 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 or a final rule is published.

Dated: March 12, 2019.

C.J. Bisignano,

Supervisory Bridge Management Specialist, First Coast Guard District.

[FR Doc. 2019–04889 Filed 3–14–19; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Parts 405, 410, 411, 414, 415, 425, and 495

[CMS–1693–CN2]

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: Final rule; correction.

SUMMARY: This document corrects technical errors in the ''Evaluation and Management Services'' provisions that appeared in the final rule with comment period published in the **Federal Register** on November 23, 2018, concerning changes to the Medicare physician fee schedule (PFS) and other Medicare Part B payment policies to ensure that our payment systems are updated to reflect changes in medical practice and the relative value of services, as well as changes in the statute.

DATES: These corrections are effective on March 14, 2019.

FOR FURTHER INFORMATION CONTACT:

Jamie Hermansen, (410) 786–2064, for any physician payment issues not identified below.

Michael Soracoe, (410) 786–6312, for issues related to relative value units (RVUs).

Lindsey Baldwin, (410) 786–1694, and Emily Yoder, (410) 786–1804, for issues related to communication technology-based services.

Pamela West, (410) 786–2302, for issues related to therapy services.

SUPPLEMENTARY INFORMATION:

I. Background

In FR Rule Doc. No. 2018–24170, published 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. The provisions in this correction document are effective as if they had been included in the document published November 23, 2018. Accordingly, the corrections are effective January 1, 2019.

II. Summary of Errors

Due to a technical error, on page 59454, in the second column, following the first full paragraph, we inadvertently did not include the heading for Section II. of the preamble ''Provisions of the Final Rule and Analysis of and Responses to Public Comments for PFS'', and the subsection heading and preamble language for ''A. Background''. This subsection provides background information regarding Medicare payment for physicians' services under the PFS. We are correcting this error by adding the language described below in section IV. 1. of this correction notice, to page 59454, in the second column, following the first partial paragraph.

Due to a technical error, the RVUs associated with the 53 modifier (discontinued procedures) for CPT codes 44388 and 45378 and HCPCS codes G0105 and G0121 were inadvertently not calculated at half of the RVUs for their respective non-53 modifier codes. The RVUs that result from the correction of this error are reflected in the updated Addendum B available on the CMS website at *https://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/PhysicianFeeSched/PFS-Federal-Regulation-Notices.html*.

On page 59575, column 3, 3rd full paragraph, we incorrectly stated that CPT code 99457 could not be furnished by auxiliary personnel, and instead must be performed by the billing practitioner. CPT code 99457 may be furnished by auxiliary personnel, incident to the billing practitioner's professional services.

On page 60070, column 3, 1st full paragraph, in our discussion of quantifying burden reduction for therapy services related to the discontinuation of functional reporting, we incorrectly referenced section II.M. rather than section II.L. of the final rule.

III. Waiver of Proposed Rulemaking

We ordinarily publish a notice of proposed rulemaking in the **Federal Register** to provide a period for public comment before the provisions of a rule take effect in accordance with section 553(b) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). However, we can waive this notice and comment procedure if the Secretary finds, for good cause, that the notice and comment process is impracticable, unnecessary, or contrary to the public interest, and incorporates a statement of the finding and the reasons therefore in the notice.

Section 553(d) of the APA ordinarily requires a 30-day delay in effective date of final rules after the date of their publication in the **Federal Register**. This 30-day delay in effective date can be waived, however, if an agency finds for good cause that the delay is impracticable, unnecessary, or contrary to the public interest, and the agency incorporates a statement of the findings and its reasons in the rule issued.

We find it unnecessary to undertake notice and comment rulemaking because this notice merely provides technical corrections to the regulations. Therefore, we find good cause to waive notice and comment procedures.

IV. Correction of Errors

In FR Rule Doc. No. 2018–24170, appearing on page 59452 in the **Federal Register** of Friday, November 23, 2018, make the following corrections:

1. On page 59454, in the second column; following the first full paragraph, we are adding the following language.

''II. Provisions of the Final Rule and Analysis of and Responses to Public Comments for PFS

A. Background

Since January 1, 1992, Medicare has paid for physicians' services under section 1848 of the Act, ''Payment for Physicians' Services.'' The PFS relies on national relative values that are established for work, practice expense (PE), and malpractice (MP), which are adjusted for geographic cost variations. These values are multiplied by a conversion factor (CF) to convert the relative value units (RVUs) into payment rates. The concepts and methodology underlying the PFS were enacted as part of the Omnibus Budget Reconciliation Act of 1989 (Pub. L. 101–239, enacted on December 19, 1989) (OBRA '89), and the Omnibus Budget Reconciliation Act of 1990 (Pub. L. 101–508, enacted on November 5, 1990) (OBRA '90). The final rule published on November 25, 1991 (56 FR 59502) set forth the first fee schedule used for payment for physicians' services.

We note that throughout this major final rule, unless otherwise noted, the term ''practitioner'' is used to describe both physicians and nonphysician practitioners (NPPs) who are permitted to bill Medicare under the PFS for the services they furnish to Medicare beneficiaries.

1. Development of the Relative Values

a. Work RVUs

The work RVUs established for the initial fee schedule, which was implemented on January 1, 1992, were developed with extensive input from the physician community. A research team at the Harvard School of Public Health developed the original work RVUs for most codes under a cooperative agreement with the Department of Health and Human Services (HHS). In constructing the code-specific vignettes used in determining the original physician work RVUs, Harvard worked with panels of experts, both inside and outside the federal government, and obtained input from numerous physician specialty groups.

As specified in section 1848(c)(1)(A) of the Act, the work component of physicians' services means the portion of the resources used in furnishing the service that reflects physician time and intensity. We establish work RVUs for new, revised and potentially misvalued codes based on our review of information that generally includes, but is not limited to, recommendations received from the American Medical Association/Specialty Society Relative Value Scale Update Committee (RUC), the Health Care Professionals Advisory Committee (HCPAC), the Medicare Payment Advisory Commission (MedPAC), and other public commenters; medical literature and comparative databases; as well as a comparison of the work for other codes within the Medicare PFS, and consultation with other physicians and health care professionals within CMS and the federal government. We also assess the methodology and data used to develop the recommendations submitted to us by the RUC and other public commenters, and the rationale for their recommendations. In the CY 2011 PFS final rule with comment period (75 FR 73328 through 73329), we discussed a variety of methodologies and approaches used to develop work RVUs, including survey data, building blocks, crosswalk to key reference or similar codes, and magnitude estimation. More information on these issues is available in that rule.

b. Practice Expense RVUs

Initially, only the work RVUs were resource-based, and the PE and MP RVUs were based on average allowable charges. Section 121 of the Social Security Act Amendments of 1994 (Pub. L. 103–432, enacted on October 31, 1994), amended section 1848(c)(2)(C)(ii) of the Act and required us to develop resource-based PE RVUs for each physicians' service beginning in 1998. We were required to consider general categories of expenses (such as office rent and wages of personnel, but excluding MP expenses) comprising PEs. The PE RVUs continue to represent the portion of these resources involved in furnishing PFS services.

Originally, the resource-based method was to be used beginning in 1998, but section 4505(a) of the Balanced Budget Act of 1997 (Pub. L. 105–33, enacted on August 5, 1997) (BBA) delayed implementation of the resource-based PE RVU system until January 1, 1999. In addition, section 4505(b) of the BBA provided for a 4-year transition period from the charge-based PE RVUs to the resource-based PE RVUs.

We established the resource-based PE RVUs for each physicians' service in the November 2, 1998 final rule (63 FR 58814), effective for services furnished in CY 1999. Based on the requirement to transition to a resource-based system for PE over a 4-year period, payment rates were not fully based upon resource-based PE RVUs until CY 2002. This resource-based system was based on two significant sources of actual PE data: The Clinical Practice Expert Panel (CPEP) data; and the AMA's Socioeconomic Monitoring System (SMS) data. These data sources are described in greater detail in the CY 2012 PFS final rule with comment period (76 FR 73033).

Separate PE RVUs are established for services furnished in facility settings, such as a hospital outpatient department (HOPD) or an ambulatory surgical center (ASC), and in nonfacility settings, such as a physician's office. The nonfacility RVUs reflect all of the direct and indirect PEs involved in furnishing a service described by a particular HCPCS code. The difference, if any, in these PE RVUs generally results in a higher payment in the nonfacility setting because in the facility settings some costs are borne by the facility. Medicare's payment to the facility (such as the outpatient prospective payment system (OPPS) payment to the HOPD) would reflect costs typically incurred by the facility. Thus, payment associated with those facility resources is not made under the PFS.

Section 212 of the Balanced Budget Refinement Act of 1999 (Pub. L. 106–113, enacted on November 29, 1999) (BBRA) directed the Secretary of Health and Human Services (the Secretary) to establish a process under which we accept and use, to the maximum extent practicable and consistent with sound data practices, data collected or developed by entities and organizations to supplement the data we normally collect in determining the PE component. On May 3, 2000, we published the interim final rule (65 FR 25664) that set forth the criteria for the submission of these supplemental PE survey data. The criteria were modified in response to comments received, and published in the **Federal Register** (65 FR 65376) as part of a November 1, 2000 final rule. The PFS final rules published in 2001 and 2003, respectively, (66 FR 55246 and 68 FR 63196) extended the period during which we would accept these supplemental data through March 1, 2005.

In the CY 2007 PFS final rule with comment period (71 FR 69624), we revised the methodology for calculating direct PE RVUs from the top-down to the bottom-up methodology beginning in CY 2007. We adopted a 4-year transition to the new PE RVUs. This transition was completed for CY 2010. In the CY 2010 PFS final rule with comment period, we updated the practice expense per hour (PE/HR) data that are used in the calculation of PE RVUs for most specialties (74 FR 61749). In CY 2010, we began a 4-year transition to the new PE RVUs using the updated PE/HR data, which was completed for CY 2013.

c. Malpractice RVUs

Section 4505(f) of the BBA amended section 1848(c) of the Act to require that we implement resource-based MP RVUs for services furnished on or after CY 2000. The resource-based MP RVUs were implemented in the PFS final rule with comment period published November 2, 1999 (64 FR 59380). The MP RVUs are based on commercial and physician-owned insurers' MP insurance premium data from all the states, the District of Columbia, and Puerto Rico. For more information on MP RVUs, see section II.C. of this final rule.

d. Refinements to the RVUs

Section 1848(c)(2)(B)(i) of the Act requires that we review RVUs no less often than every 5 years. Prior to CY 2013, we conducted periodic reviews of work RVUs and PE RVUs independently. We completed 5-year reviews of work RVUs that were effective for calendar years 1997, 2002, 2007, and 2012.

Although refinements to the direct PE inputs initially relied heavily on input from the RUC Practice Expense Advisory Committee (PEAC), the shifts to the bottom-up PE methodology in CY 2007 and to the use of the updated PE/HR data in CY 2010 have resulted in significant refinements to the PE RVUs in recent years.

In the CY 2012 PFS final rule with comment period (76 FR 73057), we finalized a proposal to consolidate reviews of work and PE RVUs under section 1848(c)(2)(B) of the Act and reviews of potentially misvalued codes under section 1848(c)(2)(K) of the Act into one annual process.

In addition to the 5-year reviews, beginning for CY 2009, CMS and the RUC identified and reviewed a number of potentially misvalued codes on an annual basis based on various identification screens. This annual review of work and PE RVUs for potentially misvalued codes was supplemented by the amendments to section 1848 of the Act, as enacted by section 3134 of the Affordable Care Act, that require the agency to periodically identify, review and adjust values for potentially misvalued codes.

e. Application of Budget Neutrality to Adjustments of RVUs

As described in section VII. of this final rule, in accordance with section 1848(c)(2)(B)(ii)(II) of the Act, if revisions to the RVUs cause expenditures for the year to change by more than $20 million, we make adjustments to ensure that expenditures do not increase or decrease by more than $20 million.

2. Calculation of Payments Based on RVUs

To calculate the payment for each service, the components of the fee schedule (work, PE, and MP RVUs) are adjusted by geographic practice cost indices (GPCIs) to reflect the variations in the costs of furnishing the services. The GPCIs reflect the relative costs of work, PE, and MP in an area compared to the national average costs for each component. Please refer to the CY 2017 PFS final rule with comment period for a discussion of the last GPCI update (81 FR 80261 through 80270).

RVUs are converted to dollar amounts through the application of a CF, which is calculated based on a statutory formula by CMS's Office of the Actuary (OACT). The formula for calculating the Medicare PFS payment amount for a

given service and fee schedule area can be expressed as:

Payment = [(RVU work × GPCI work) + (RVU PE × GPCI PE) + (RVU MP × GPCI MP)] × CF

3. Separate Fee Schedule Methodology for Anesthesia Services

Section 1848(b)(2)(B) of the Act specifies that the fee schedule amounts for anesthesia services are to be based on a uniform relative value guide, with appropriate adjustment of an anesthesia CF, in a manner to ensure that fee schedule amounts for anesthesia services are consistent with those for other services of comparable value. Therefore, there is a separate fee schedule methodology for anesthesia services. Specifically, we establish a separate CF for anesthesia services and we utilize the uniform relative value guide, or base units, as well as time units, to calculate the fee schedule amounts for anesthesia services. Since anesthesia services are not valued using RVUs, a separate methodology for locality adjustments is also necessary. This involves an adjustment to the national anesthesia CF for each payment locality.''

2. On page 59575, column 3, 3rd full paragraph we are removing the sentence, ''We note that CPT code 99457 describes professional time and therefore cannot be furnished by auxiliary personnel incident to a practitioner's professional services.'' and adding in its place, ''We thank commenters and confirm that these services may be furnished by auxiliary personnel incident to a practitioner's professional service.''

3. On page 60070, in the 3rd column; in the first full paragraph, in the section heading, 3. Outpatient Therapy Services; line 1, we are correcting the section reference in the sentence, ''As noted in section II.M. of this final rule,'' to read ''As noted in section II.L. of this final rule,''.

Dated: March 5, 2019.

Ann C. Agnew,

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

[FR Doc. 2019–04803 Filed 3–14–19; 8:45 am]

BILLING CODE 4120–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 0

[FCC 18–103]

Equal Employment Opportunity Audit and Enforcement Team Deployment

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Federal Communications Commission (FCC or Commission) moves the audit and enforcement responsibilities associated with our equal employment opportunity (EEO) rules from the Media Bureau to the Enforcement Bureau. As set forth below, we conclude that transferring enforcement of these rules to the Enforcement Bureau will better ensure that the communications companies subject to these rules give all qualified individuals an opportunity to apply and be considered as job candidates.

DATES: Effective March 15, 2019.

FOR FURTHER INFORMATION CONTACT: For additional information, contact Holly Saurer, *Holly.Saurer@fcc.gov,* of the Media Bureau, (202) 418–7200. Direct press inquiries to Janice Wise at (202) 418–8165.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Order* (Order), FCC 18–103, adopted and released on July 24, 2018. The full text of this document is available electronically via the FCC's Electronic Document Management System (EDOCS) website at *http://fjallfoss.fcc.gov/edocs_public/* or via the FCC's Electronic Comment Filing System (ECFS) website at *http://fjallfoss.fcc.gov/ecfs2/*. (Documents will be available electronically in ASCII, Microsoft Word, and/or Adobe Acrobat.) This document is also available for public inspection and copying during regular business hours in the FCC Reference Information Center, which is located in Room CY–A257 at FCC Headquarters, 445 12th Street SW, Washington, DC 20554. The Reference Information Center is open to the public Monday through Thursday from 8:00 a.m. to 4:30 p.m. and Friday from 8:00 a.m. to 11:30 a.m. The complete text may be purchased from the Commission's copy contractor, 445 12th Street SW, Room CY–B402, Washington, DC 20554. Alternative formats are available for people with disabilities (Braille, large print, electronic files, audio format), by sending an email to *fcc504@fcc.gov* or calling the Commission's Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY).

Synopsis

1. In this Order, we conclude that it will serve the public interest and improve the Commission's operations to move the audit and enforcement responsibilities associated with our EEO rules from the Media Bureau to the Enforcement Bureau. We take this action in recognition of the important role our EEO rules play in encouraging a diverse and multi-talented workforce and at the request of MMTC and other civil rights organizations. By transferring enforcement of these rules to the Enforcement Bureau, we find that we can better ensure that the communications companies subject to these rules give all qualified individuals an opportunity to apply and be considered as job candidates. We therefore conclude that this organizational change is warranted and amend the Commission's rules accordingly.

2. Fifty years ago this month, the Commission observed that equal opportunity in employment was essential to the public interest and committed to ensuring that the national policy against discrimination in hiring applied to broadcast licensees.[1] This remains true today. Currently, a team comprised of attorneys and other professionals responsible for EEO audits and enforcement is part of the Commission's Media Bureau.[2] The EEO audit and enforcement team does essential work overseeing the EEO compliance of television and radio broadcast licensees, as well as multichannel video programming distributors (MVPDs), such as cable and DBS operators, and satellite radio. The team's work is primarily focused on periodic random audits of broadcast licensee and MVPD EEO programs, along with any necessary enforcement actions arising from those audits.[3] In

[1] *Petition for Rulemaking to Require Broadcast Licensees to Show Nondiscrimination in Their Employment Practices,* Memorandum Opinion and Order and Notice of Proposed Rulemaking, Docket No. 18244, 33 FR 12854 (Sept. 11, 1968), 13 FCC 2d 766 (1968).

[2] 47 CFR 0.61(d).

[3] Each year, the EEO team conducts a random audit of the EEO compliance of five percent of radio station employment units, as well as five percent of television station employment units. 47 CFR 73.2080(f)(4). The team also conducts random audits of the EEO compliance of MVPD employment units. 47 CFR 73.77(d). In addition, the team is responsible for ensuring that every MVPD employment unit is reviewed for compliance through a supplemental investigation at least once every five years (meaning that approximately 20 percent are investigated each year). 47 CFR 76.77(c).

addition, the team reviews EEO filings that broadcasters must submit to the Commission at the same time as their license renewal applications,[4] and for some broadcast licensees, the team assesses EEO compliance around the midpoint of their eight-year license terms.[5] The EEO team also investigates complaints and takes enforcement action based on those investigations when necessary.

3. In the 2014 Quadrennial Review proceeding, the Multicultural Media, Telecom and Internet Council (MMTC), along with a large group of fellow self-identified ''Diversity and Competition Supporters,'' made an unopposed proposal to create a Civil Rights Branch of the Enforcement Bureau that would contain EEO enforcement.[6] In the *Quadrennial Second Report and Order,* the Commission found that while there was no ''need to denominate a separate branch,'' moving EEO enforcement into the Enforcement Bureau ''warrant[ed] further consideration.'' [7] It therefore directed ''the Media Bureau, Enforcement Bureau, and Office of the Managing Director, to discuss the feasibility, implications, and logistics of shifting the enforcement of the Media Bureau Equal Employment Opportunity rules from the Media Bureau to the Enforcement Bureau.'' [8] Those internal discussion have now been completed. Recently, MMTC and a large group of self-identified ''EEO Supporters'' filed comments in the Modernization of Media Regulation proceeding similarly proposing that, in order to ''modernize [our] EEO enforcement program,'' the Commission should ''[l]ocate the EEO staff in the Enforcement Bureau.'' [9]

4. As the Commission observed in the *Quadrennial Second Report and Order,* the EEO team in the Media Bureau has consistently been effective at overseeing compliance with and enforcing the EEO rules.[10] Nonetheless, there are notable benefits to bringing the EEO team within a larger group of enforcement experts. The Enforcement Bureau's staff has extensive experience conducting investigations and pursuing enforcement in a wide range of areas. They therefore are well positioned to provide assistance and guidance with EEO review, audit, and enforcement work. Further, the Enforcement Bureau has expertise in, and maintains tools and databases to aid with, the tracking of statutory deadlines, including those relevant to EEO audits and investigations, that the Media Bureau does not.

5. For these reasons, we believe that shifting the EEO team to the Enforcement Bureau will result in more effective enforcement of the Commission's EEO rules. Accordingly, we find that the EEO team should be moved from the Media Bureau to the Enforcement Bureau. Specifically, the Policy Division staff in the Media Bureau who are currently responsible exclusively for EEO audit and enforcement will join the Enforcement Bureau's Investigations and Hearings Division.[11]

6. The key objectives of this organizational change are to more efficiently deploy Commission audit and enforcement resources, enhance industry-wide oversight of compliance with EEO rules, improve cross-Commission consistency in audit-based enforcement, and rationalize and modernize our organizational structure. We agree with the EEO Supporters that we can best accomplish these objectives through organizational change. In order to effectuate this change, we modify our procedural rules. Specifically, we eliminate the express delegation to the Media Bureau of authority for administration and enforcement of EEO rules and add an express delegation to the Enforcement Bureau covering the EEO rules.[12]

7. The amendments adopted herein pertain to agency organization, procedure, and practice. Consequently, the notice and comment and effective date provisions of the Administrative Procedure Act contained in 5 U.S.C. 553(b) and (d) do not apply.

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

9. The Commission will not send a copy of this Order pursuant to the Congressional Review Act, see 5 U.S.C. 801(a)(1)(A), because the adopted rules exclusively relate to agency management or personnel.

10. *It is ordered* that, pursuant to the authority found in sections 1, 4, 5(b), 5(c), and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154, 155(b), 155(c), 303(r), this Report and Order is hereby adopted.

11. *It is further ordered* that part 0 of the Commission rules IS AMENDED as set forth in the Final Rules.

12. *It is further ordered* that, consistent with the Consolidated Appropriations Act of 2017,[13] this Order WILL BECOME EFFECTIVE when the appropriate clearance has been obtained and the Commission thereafter publishes this Order in the **Federal Register**.

List of Subjects in 47 CFR Part 0

Classified information, Freedom of information, Government publications, Infants and children, Organization and functions (Government agencies), Postal Service, Privacy, Reporting and recordkeeping requirements, Sunshine Act.

[4] Each broadcast licensee must file an FCC Form 396 (Broadcast Equal Opportunity Program Report) in conjunction with its license renewal application. 47 CFR 73.2080(f)(1); FCC Form 396, available at *https://transition.fcc.gov/Forms/Form396/396.pdf* (last visited May 22, 2018).

[5] The EEO team reviews the EEO practices of all broadcast television stations in station employment units with five or more full-time employees, and all radio stations in employment units with eleven or more full-time employees, around the midpoint of broadcasters' license terms. 47 CFR 73.2080(f)(2). The Commission is currently considering elimination of FCC Form 397, which is used as part of the mid-term review process. FCC Form 397, available at *https://transition.fcc.gov/Forms/Form397/397.pdf* (last visited May 22, 2018); *see Elimination of Obligation to File Broadcast Mid-Term Report (Form 397) Under Section 73.2080(f)(2),* Notice of Proposed Rulemaking, 83 FR 12313 (March 21, 2018), MB Docket No. 18–23 (2017). As discussed in that NPRM, even if Form 397 is eliminated, the mid-term review will still be conducted, as required by statute, and will be done by the EEO team. *Id.* at para. 7 (citing 47 U.S.C. 334(b)).

[6] *See Diversity and Competition Supporters Supplemental NPRM Comments* at 80–81 (Proposal 40, Create a New Civil Rights Branch of the Enforcement Bureau), filed in MB Docket No. 09–182 (April 3, 2012).

[7] *2014 Quadrennial Regulatory Review—Review of the Commission's Broadcast Ownership Rules and Other Rules Adopted Pursuant to Section 202 of the Telecommunications Act of 1996,* Second Report and Order, MB Docket No. 14–50, 81 FR 76220 (Nov. 1, 2016), 31 FCC Rcd 9864 at 10007, para 333 (2016) (*Quadrennial Second Report and Order*).

[8] *Id.*

[9] Comments of the EEO Supporters at 5–6 (Apr. 30, 2018), filed in MB Docket No. 17–105. *See also* EEO Supporters Ex Parte at 2 (June 1, 2018), filed in MB Docket No. 17–105.

[10] *Quadrennial Second Report and Order* at 10007, para. 333.

[11] As relocated to the Enforcement Bureau, the EEO team will continue to perform its existing compliance reviews, as described above, including periodic random audits, review of filings that broadcasters must submit to the Commission at the same time as their license renewal applications, and mid-term reviews. Rulemaking proceedings pertaining to EEO issues will continue to be conducted by the Media Bureau. 47 CFR 0.61(b).

[12] 47 CFR 0.111(a).

[13] *See* Consolidated Appropriations Act, 2018, Public Law 115–141, at Division E, Title VI, Section 608, 132 Stat. 348 (2018).

Federal Communications Commission.

Marlene Dortch,

Secretary.

Final Rules

For the reasons stated in the preamble, the Federal Communications Commission amends 47 CFR part 0 as set forth below:

PART 0—COMMISSION ORGANIZATION

■ 1. The authority citation for part 0 continues to read as follows:

Authority: Sec. 5, 48 Stat. 1068, as amended; 47 U.S.C. 155, 225, unless otherwise noted.

§ 0.61 [Amended]

■ 2. Amend § 0.61 by removing and reserving paragraph (d).

■ 3. Amend § 0.111 by revising paragraphs (a)(11) and (13) and adding paragraph (a)(26) to read as follows:

§ 0.111 Functions of the Bureau.

(a)* * *

(11) Resolves other complaints against Title III licensees and permittees (Title III of the Communications Act of 1934, as amended), including complaints under § 20.12(e) of this chapter, except that the Media Bureau has primary responsibility for complaints regarding children's television programming requirements, and for political and related programming matters involving broadcasters, cable operators and other multichannel video programming distributors. The relevant licensing Bureau has primary responsibility for complaints involving tower siting and the Commission's environmental rules. The Media Bureau has primary responsibility for complaints regarding compliance with conditions imposed on transfers of control and assignments of licenses of Cable Television Relay Service authorizations.

* * * * *

(13) Resolve complaints regarding multichannel video and cable television service under part 76 of this chapter, except that the Media Bureau has primary responsibility for complaints regarding the following: Subpart A (general), with the exception of § 76.11; subpart B (Registration Statements); subpart C (Cable Franchise Applications); subpart D (carriage of television broadcast signals); subpart F (nonduplication protection and syndicated exclusivity); subpart G, §§ 76.205 and 76.206 (political broadcasting); subpart I ([Reserved]); subpart J (ownership); subpart L (cable television access); subpart N, § 76.944 (basic cable rate appeals), and §§ 76.970, 76.971, and 76.977 (cable leased access rates); subpart O (competitive access to cable programming); subpart P (competitive availability of navigation devices); subpart Q (regulation of carriage agreements); subpart S (Open Video Systems); and subparts T, U, and V to the extent related to the matters listed in this paragraph (a)(13).

* * * * *

(26) Conduct audits and investigations and resolve issues of compliance concerning equal employment opportunity requirements involving Title III licensees and permittees or multichannel video programming distributors, including cable service providers, under part 76 of this chapter.

* * * * *

[FR Doc. 2019–04563 Filed 3–14–19; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MB Docket No. 18–383, RM–11822; DA 19–149]

Television Broadcasting Services Cookeville and Franklin, Tennessee

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: At the request of ION Media License Company, LLC (ION), licensee of digital television station WNPX–TV, channel 36, Cookeville, Tennessee (WNPX), the Commission has before it an unopposed Notice of Proposed Rulemaking proposing to amend the Post-Transition Table of DTV Allotments to reallot channel 36 from Cookeville to Franklin, Tennessee. ION further requested modification of WNPX's license to specify Franklin as the station's community of license. ION claimed that proposed reallotment is mutually exclusive with WNPX's current allotment because it is based on the technical specifications currently authorized for the station. Furthermore, ION stated that the proposed reallotment is consistent with the Commission's second allotment priority because it will provide Franklin with its first local transmission service. ION explained that Franklin not only qualifies as a community for allotment purposes, but is also a larger community than Cookeville and is deserving of its first local transmission service.

DATES: Effective March 15, 2019.

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 summary of the Commission's Report and Order in MB Docket No. 19–149; RM–11817; DA 19–149, adopted on March 6, 2019, and released on March 6, 2019. 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.

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

List of Subjects in 47 CFR Part 73

Television.

Federal Communications Commission.

Barbara Kreisman

Chief, Video Division, Media Bureau.

Final Rules

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 73 as follows:

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

Authority: 47 U.S.C. 154, 303, 334, 336, and 339.

■ 2. Amend § 73.622, in the table in paragraph (i), under Tennessee, by removing the entry for Cookeville and adding in alphabetical order an entry for Franklin.

The addition reads as follows:

§ 73.622 Digital television table of allotments.

* * * * *

(i) * * *

Community	Channel No.
* * * * *	
Tennessee	
* * * * *	
Franklin	36

* * * * *

[FR Doc. 2019–04789 Filed 3–14–19; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 170816769–8162–02]

RIN 0648–XG869

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Vessels Using Jig Gear in the Central Regulatory Area of the Gulf of Alaska

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS is prohibiting directed fishing for Pacific cod by vessels using jig gear in the Central Regulatory Area of the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the A season allowance of the 2019 Pacific cod total allowable catch apportioned to vessels using jig gear in the Central Regulatory Area of the GOA.

DATES: Effective 1200 hours, Alaska local time (A.l.t.), March 12, 2019, through 1200 hours, A.l.t., June 10, 2019.

FOR FURTHER INFORMATION CONTACT: Josh Keaton, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679. Regulations governing sideboard protections for GOA groundfish fisheries appear at subpart B of 50 CFR part 680.

The A season allowance of the 2019 Pacific cod total allowable catch (TAC) apportioned to vessels using jig gear in the Central Regulatory Area of the GOA is 35 metric tons (mt), as established by the final 2018 and 2019 harvest specifications for groundfish of the GOA (83 FR 8768, March 1, 2018).

In accordance with § 679.20(d)(1)(i), the Administrator, Alaska Region, NMFS (Regional Administrator) has determined that the A season allowance of the 2019 Pacific cod TAC apportioned to vessels using jig gear in the Central Regulatory Area of the GOA is necessary to account for the incidental catch in other anticipated fisheries. Therefore, the Regional Administrator is establishing a directed fishing allowance of 0 mt and is setting aside the remaining 35 mt as bycatch to support other anticipated groundfish fisheries. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance has been reached. Consequently, NMFS is prohibiting directed fishing for Pacific cod by vessels using jig gear in the Central Regulatory Area of the GOA. While this closure is effective the maximum retainable amounts at § 679.20(e) and (f) apply at any time during a trip.

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the directed fishing closure of Pacific cod by vessels using jig gear in the Central Regulatory Area of the GOA. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of March 11, 2019.

The AA also finds good cause to waive the 30-day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

This action is required by § 679.20 and is exempt from review under Executive Order 12866.

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

Dated: March 12, 2019.

Karen H. Abrams,

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

[FR Doc. 2019–04857 Filed 3–12–19; 4:15 pm]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 170816769–8162–02]

RIN 0648–XG719

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Vessels Using Jig Gear in the Western Regulatory Area of the Gulf of Alaska

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS is prohibiting directed fishing for Pacific cod by vessels using jig gear in the Western Regulatory Area of the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the A season allowance of the 2019 Pacific cod total allowable catch apportioned to vessels using jig gear in the Western Regulatory Area of the GOA.

DATES: Effective 1200 hours, Alaska local time (A.l.t.), March 13, 2019, through 1200 hours, A.l.t., June 10, 2019.

FOR FURTHER INFORMATION CONTACT: Josh Keaton, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679. Regulations governing sideboard protections for GOA groundfish fisheries appear at subpart B of 50 CFR part 680.

The A season allowance of the 2019 Pacific cod total allowable catch (TAC) apportioned to vessels using jig gear in the Western Regulatory Area of the GOA is 80 metric tons (mt), as established by the final 2018 and 2019 harvest specifications for groundfish of the GOA (83 FR 8768, March 1, 2018).

In accordance with § 679.20(d)(1)(i), the Administrator, Alaska Region, NMFS (Regional Administrator) has determined that the A season allowance of the 2019 Pacific cod TAC apportioned to vessels using jig gear in the Western Regulatory Area of the GOA will soon be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 80 mt and is setting aside the remaining 0 mt as bycatch to support other anticipated groundfish fisheries. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance has been reached. Consequently, NMFS is prohibiting directed fishing for Pacific cod by vessels using jig gear in the Western Regulatory Area of the GOA. While this closure is effective the maximum retainable amounts at § 679.20(e) and (f) apply at any time during a trip.

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the directed fishing closure of Pacific cod by vessels using jig gear in the Western Regulatory Area of the GOA. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of March 11, 2019.

The AA also finds good cause to waive the 30-day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

This action is required by § 679.20 and is exempt from review under Executive Order 12866.

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

Dated: March 12, 2019.

Karen H. Abrams,

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

[FR Doc. 2019–04820 Filed 3–12–19; 4:15 pm]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 84, No. 51
Friday, March 15, 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 HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2019–0113]

RIN 1625–AA00

Safety Zone; Lake of the Ozarks, Osage Beach, MO

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard is proposing to establish a temporary safety zone for certain waters of the Lake of the Ozarks. This action is necessary to provide for the safety of life on these navigable waters near the Tan-Tar-A Resort, Osage Beach, MO during a fireworks display on May 4, 2019. This proposed rulemaking would prohibit persons and vessels from entering the safety zone unless authorized by the Captain of the Port Sector Upper Mississippi River 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 April 15, 2019.

ADDRESSES: You may submit comments identified by docket number USCG–2019–0113 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 Lieutenant Commander Christian Barger, Waterways Management Division, Sector Upper Mississippi River, U.S. Coast Guard; telephone 314–269–2560, email *Christian.J.Barger@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background, Purpose, and Legal Basis

On February 18, 2019, the Premier Pyrotechnics Inc. notified the Coast Guard that it would be conducting a fireworks display from 9 to 9:30 p.m. on May 4, 2019, for a private event taking place at the Tan-Tar-A Resort in Osage Beach, MO. The fireworks are to be launched from a barge in the Lake of the Ozarks approximately 250 feet southeast of the southern point of the resort near mile marker 26. Hazards associated with firework displays may include accidental discharge of fireworks, dangerous projectiles, and falling hot embers or other debris. The Captain of the Port Sector Upper Mississippi River (COTP) has determined that these potential hazards would be a safety concern for anyone within a 300-foot radius of the fireworks barge.

The purpose of this rulemaking is to ensure the safety of vessels and the navigable waters within a 300-foot radius of the fireworks barge before, during, and after the scheduled event. The Coast Guard is proposing this rulemaking under authority in 46 U.S.C. 70034.

III. Discussion of Proposed Rule

The COTP is proposing to establish a safety zone from 8:45 to 9:45 p.m. on May 4, 2019. The safety zone would cover all navigable waters within 300 feet of a barge in the Lake of the Ozarks located approximately 250 feet southeast of the southern point of the resort near mile marker 26. The duration of the zone is intended to ensure the safety of vessels on these navigable waters before, during, and after the scheduled fireworks display. No vessel or person would be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative. 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 duration of the rule and the location of the safety zone within the waterway. This regulatory action would be in place for a period of 1 hour, within a 300 foot radius of the fireworks barge, close to the shoreline of the Tan-Tar-A Resort in Osage Beach, MO. The majority of the waterway would remain open to traffic during the fireworks display.

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 temporary 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 temporary safety zone lasting 1 hour that would prohibit entry within 300 feet of a fireworks barge. 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: 46 U.S.C. 70034; 46 U.S.C. 70051; 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.T08–0113 to read as follows:

§ 165.T08–0113 Safety Zone; Lake of the Ozarks, Osage Beach, MO.

(a) *Location.* The following area is a safety zone: All navigable waters of the Lake of the Ozarks within a 300-foot radius of a barge-launched fireworks display located approximately 250 feet southeast of the southern point of the Tan-Tar-A Resort near mile marker 26.

(b) *Period of enforcement.* This section will be enforced from 8:45 p.m. through 9:45 p.m. on May 4, 2019.

(c) *Regulations.* (1) In accordance with the general regulations in § 165.23, persons and vessels are prohibited from entering the safety zone unless authorized by the Captain of the Port Sector Upper Mississippi River (COTP) or a designated representative. A designated representative is a

commissioned, warrant, or petty officer of the U.S. Coast Guard assigned to units under the operational control of USCG Sector Upper Mississippi River.

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

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

(d) *Informational broadcasts.* The COTP or a designated representative will inform the public of the enforcement date and times for this safety zone, as well as any emergent safety concerns that may delay the enforcement of the zone through Local Notices to Mariners (LNMs), and/or actual notice.

Dated: March 8, 2019.

S.A. Stoermer,

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

[FR Doc. 2019–04813 Filed 3–14–19; 8:45 am]

BILLING CODE 9110–04–P

POSTAL SERVICE

39 CFR Part 111

New Electronic Signature Option

AGENCY: Postal Service™.

ACTION: Proposed rule.

SUMMARY: The Postal Service is proposing to revise *Mailing Standards of the United States Postal Service,* Domestic Mail Manual (DMM®) to include a more flexible option for package addressees to provide an electronic signature indicating delivery of a package.

DATES: Submit comments on or before April 15, 2019.

ADDRESSES: Mail or deliver written comments to the manager, Product Classification, U.S. Postal Service, 475 L'Enfant Plaza SW, Room 4446, Washington, DC 20260–5015. If sending comments by email, include the name and address of the commenter and send to *ProductClassification@usps.gov,* with a subject line of ''New Electronic Signature Option''. Faxed comments are not accepted.

All submitted comments and attachments are part of the public record and subject to disclosure. Do not enclose any material in your comments that you consider to be confidential or inappropriate for public disclosure.

You may inspect and photocopy all written comments, by appointment only, at USPS® Headquarters Library, 475 L'Enfant Plaza SW, 11th Floor North, Washington, DC, 20260. These records are available for review on Monday through Friday, 9 a.m.—4 p.m., by calling 202–268–2906.

FOR FURTHER INFORMATION CONTACT: Karen F. Key at (202) 268–7492, Tiffany S. Jesse at (202) 268–7303, or Garry Rodriguez at (202) 268–7281.

SUPPLEMENTARY INFORMATION: The Postal Service is proposing to amend the DMM in various sections to offer a more flexible option for package addressees (or their representatives) to provide an electronic signature indicating delivery of a package, when the sender chooses the following signature services: Priority Mail Express®, Signature Confirmation™ service, and Insurance for more than $500. Generally, current practice is for the recipient of the package to sign at the time of delivery.

An exception is offered for some packages addressed to a Post Office Box™. Post Office Box customers at Competitive Post Office Box locations can sign up for a Signature On File option, and provide a signature that is retained at the Post Office for scanning when the aforementioned signature services are used. The package is then left in the customer's Post Office Box or a parcel locker for pickup at the customer's convenience, without having to provide a new signature.

The Postal Service is proposing to add an option for deliveries outside of postal facilities. Customers would sign up and provide a signature electronically. This would enable the customer to apply the previously provided signature to future Commercial package deliveries sent to the customer's address using Priority Mail Express, Signature Confirmation service, or Insurance for more than $500, eliminating the need for a signature at the time of delivery. However, shippers who want the Postal Service to obtain a signature at the time of delivery would have the option to indicate this requirement on the shipping manifest. When the shipper does not reject the use of the previously provided signature, the customer who previously provided an electronic signature would be given the option for each delivery whether to sign at the time of delivery, or use the previously provided electronic signature.

For Priority Mail Express, the shipper already must request a signature in order for it be collected. The proposal would be to make the previously provided electronic signature available for such deliveries, unless the shipper indicates on the shipping manifest that the signature needs to be collected from the recipient at the time of delivery.

Application to all shipments using Priority Mail Express, Signature Confirmation service, and Insurance for more than $500, rather than just Commercial shipments, may be phased in later.

Changes to the DMM language include a more general reference to the signature for the affected services, while adding a description of ''signature'' which distinguishes between the traditional signature and the electronic signature.

In addition, the Postal Service will remove outdated text referring to Priority Mail Express labels printed prior to January 2012.

List of Subjects in 39 CFR Part 111

Administrative practice and procedure, Postal Service.

Although exempt from the notice and comment requirements of the Administrative Procedure Act (5 U.S.C. 553(b), (c)) regarding proposed rulemaking by 39 U.S.C. 410(a), the Postal Service invites public comments on the following proposed revisions to *Mailing Standards of the United States Postal Service,* Domestic Mail Manual (DMM), incorporated by reference in the Code of Federal Regulations. *See* 39 CFR 111.1.

We will publish an appropriate amendment to 39 CFR part 111 to reflect these changes.

Accordingly, 39 CFR part 111 is proposed to be amended as follows:

PART 111—[AMENDED.]

■ 1. The authority citation for 39 CFR part 111 continues to read as follows:

Authority: 5 U.S.C. 552(a); 13 U.S.C. 301–307; 18 U.S.C. 1692–1737; 39 U.S.C. 101, 401, 403, 404, 414, 416, 3001–3011, 3201–3219, 3403–3406, 3621, 3622, 3626, 3632, 3633, and 5001.

■ 2. Revise the *Mailing Standards of the United States Postal Service,* Domestic Mail Manual (DMM) as follows:

Mailing Standards of the United States Postal Service, Domestic Mail Manual (DMM)

* * * * *

100 Retail Mail Letters, Cards, Flats, and Parcels

* * * * *

110 Priority Mail Express

* * * * *

115 Mail Preparation

* * * * *

2.0 Priority Mail Express 1-Day and 2-Day

* * * * *

[Delete 2.2, Waiver of Signature, in its entirety and renumber 2.3 and 2.4 as 2.2 and 2.3.]

2.2 Signature Required

[Revise the first sentence of renumbered 2.2 to read as follows:]

For editions of Priority Mail Express Label 11–B or Label 11–F printed on or after January 2012, a mailer sending a Priority Mail Express item, and requiring a signature, must instruct the USPS to provide a signature by checking the ''signature required'' box on Label 11–B or Label 11–F or indicating signature is requested on single-ply commercial label. * * *

* * * * *

200 Commercial Mail Letters, Cards, Flats, and Parcels

* * * * *

210 Priority Mail Express

* * * * *

215 Mail Preparation

* * * * *

2.0 Priority Mail Express 1-Day and 2-Day

* * * * *

[Delete 2.2, Waiver of Signature, in its entirety and renumber 2.3 and 2.4 as 2.2 and 2.3.]

2.2 Signature Required

[Revise the first sentence of renumbered 2.2 to read as follows:]

For editions of Priority Mail Express Label 11–B or Label 11–F printed on or after January 2012, a mailer sending a Priority Mail Express item, and requiring a signature, must instruct the USPS to provide a signature by checking the ''signature required'' box on Label 11–B or Label 11–F or indicating signature is requested on single-ply commercial label. * * *

* * * * *

500 Additional Mailing Services

503 Extra Services

1.0 Basic Standards for All Extra Services

1.1 Description

[Revise the first sentence of 1.1 to read as follows:]

Extra services described in 2.0 through 11.0 provide optional services such as insurance coverage, restricted delivery, and evidence of mailing, or a record of delivery (which includes a signature). * * *

* * * * *

1.8 Obtaining Delivery Information and Delivery Records

Delivery records for extra services are available as follows:

[Revise the text of item a to read as follows:]

a. Information by article number can be retrieved at *www.usps.com* or by calling 1–800–222–1811. A proof of delivery letter (including a signature, when available) may be provided by email. When a proof of delivery letter includes a signature, the signature provided may be a signature that was obtained from the recipient at the time of delivery or, for certain services, an electronic signature that was previously provided by the addressee (or representative) and is maintained on file with the Postal Service. Eligible mailers may require at the time of mailing that a signature be obtained from the recipient at the time of delivery.

* * * * *

4.0 Insured Mail

* * * * *

4.3 Basic Standards

4.3.1 Description

Insured mail is subject to the basic standards in 1.0; see 1.4 for eligibility. The following additional standards apply to insured mail:

* * * * *

[Revise the fourth and fifth sentences of item c to read as follows:]

c. * * * An item insured for more than $500.00 receives a delivery scan (includes returns products meeting the applicable standards in 505) and the USPS provides a signature as the delivery record to the mailer electronically (excludes returns products). Customers may optionally obtain a delivery record by purchasing a printed return receipt (Form 3811; also see *6.0* excludes returns products). * * *

* * * * *

8.0 USPS Signature Services

8.1 Basic Standards

8.1.1 Description

* * * USPS Signature Services are available as follows:

[Revise the second sentence of item a to read as follows:]

a. * * * A delivery record (including a signature) is maintained by the USPS and is available electronically or by email, upon request. * * *

* * * * *

508 Recipient Services

1.0 Recipient Options

1.1 Basic Recipient Concerns

* * * * *

1.1.7 Priority Mail Express and Accountable Mail

The following conditions also apply to the delivery of Priority Mail Express, Registered Mail, Certified Mail, mail insured for more than $500.00, Adult Signature, or COD, as well as mail for which a return receipt is requested or the sender has specified restricted delivery:

* * * * *

[Revise the text of item b to read as follows:]

b. Unless an electronic signature is used as described in 503.1.8a, a mailpiece may not be opened or given to the recipient before the recipient signs and legibly prints his or her name on the applicable form or label and returns the form or label to the USPS employee.

* * * * *

Brittany M. Johnson,

Attorney, Federal Compliance.

[FR Doc. 2019–04566 Filed 3–14–19; 8:45 am]

BILLING CODE 7710–12–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 181218999–9208–01]

RIN 0648–BI67

Magnuson-Stevens Act Provisions; Fisheries Off West Coast States; Pacific Coast Groundfish Fishery; 2019 Tribal Fishery for Pacific Whiting

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS issues this proposed rule for the 2019 Pacific whiting fishery under the authority of the Pacific Coast Groundfish Fishery Management Plan, the Magnuson-Stevens Fishery Conservation and Management Act, and the Pacific Whiting Act of 2006. This proposed rule would allocate 17.5 percent of the U.S. Total Allowable Catch of Pacific whiting for 2019 to Pacific Coast Indian tribes that have a treaty right to harvest groundfish. It

would also amend the provisions regarding reapportionment of the treaty tribes' whiting allocation to the non-treaty sectors to require that NMFS consider the level of Chinook salmon bycatch when determining whether to reapportion whiting. This rule is necessary to manage the Pacific whiting stock to Optimal Yield, ensure that the Pacific Coast Groundfish Fishery Management Plan (FMP) is implemented in a manner consistent with treaty rights of four treaty tribes to fish for Pacific whiting in their ''usual and accustomed grounds and stations'' in common with non-tribal citizens, and to protect salmon stocks listed under the Endangered Species Act.

DATES: Comments on this proposed rule must be received no later than April 1, 2019.

ADDRESSES: You may submit comments on this document, identified by NOAA–NMFS–2019–0001 by any of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal eRulemaking Portal. Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2019-0001* click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.
- *Mail:* Aja Szumylo, Sustainable Fisheries Division, West Coast Region, NMFS, 7600 Sand Point Way NE, Seattle, WA 98115–0070.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (*e.g.,* name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous).

FOR FURTHER INFORMATION CONTACT: Miako Ushio, phone: 206–526–4644, and email: *Miako.Ushio@noaa.gov.*

SUPPLEMENTARY INFORMATION:

Electronic Access

This proposed rule is accessible via the internet at the Office of the Federal Register website at *https://www.federalregister.gov.* Background information and documents are available at the NMFS West Coast Region website at *http://www.westcoast.fisheries.noaa.gov/fisheries/management/whiting/pacific_whiting.html* and at the Pacific Fishery Management Council's website at *http://www.pcouncil.org/.*

Background: Tribal Allocations

The regulations at 50 CFR 660.50(d) outline the procedures for implementing the treaty rights that Pacific Coast treaty Indian tribes have to harvest groundfish in their usual and accustomed fishing areas in U.S. waters. Tribes with treaty fishing rights in the area covered by the Pacific Coast Groundfish FMP request allocations, set-asides, or regulations specific to the tribes during the Pacific Fishery Management Council's (Council) biennial harvest specifications and management measures process. The regulations state that the Secretary will develop tribal allocations and regulations in consultation with the affected tribe(s) and, insofar as possible, with tribal consensus.

Since the FMP has been in place, NMFS has allocated a portion of the U.S. Total Allowable Catch (TAC)of Pacific whiting to the tribal fishery, following the process established in 50 CFR 660.50(d). The tribal allocation is subtracted from the U.S. Pacific whiting TAC before allocation to the non-tribal sectors.

There are four tribes that can participate in the tribal Pacific whiting fishery: The Hoh Tribe, the Makah Tribe, the Quileute Tribe, and the Quinault Indian Nation (collectively, the ''Treaty Tribes''). Tribal allocations have been based on discussions with the Tribes regarding their intent for those fishing years. The Hoh Tribe has not expressed an interest in participating to date. The Quileute Tribe and Quinault Indian Nation have expressed interest in beginning to participate in the Pacific whiting fishery at a future date. To date, only the Makah Tribe has prosecuted a tribal fishery for Pacific whiting, and has harvested Pacific whiting since 1996 using midwater trawl gear. Table 1 below provides a history of U.S. TACs and annual tribal allocation in metric tons (mt).

TABLE 1—U.S. TOTAL ALLOWABLE CATCH AND ANNUAL TRIBAL ALLOCATION IN METRIC TONS (mt)

Year	U.S. TAC [1] (mt)	Tribal allocation (mt)
2007	242,591	35,000
2008	269,545	35,000
2009	135,939	50,000
2010	193,935	49,939
2011	290,903	66,908
2012	186,037	48,556
2013	269,745	63,205
2014	316,206	55,336
2015	325,072	56,888
2016	367,553	64,322
2017	441,433	77,251
2018	441,433	77,251

[1] Beginning in 2012, the United States started using the term Total Allowable Catch, or TAC, based on the Agreement between the Government of the United States of America and the Government of Canada on Pacific Hake/Whiting. Prior to 2012, the terms Optimal Yield (OY) and Annual Catch Limit (ACL) were used.

In 2009, NMFS, the states of Washington and Oregon, and the Treaty Tribes started a process to determine the long-term tribal allocation for Pacific whiting. However, these groups have not yet determined a long-term allocation. In order to ensure Treaty Tribes continue to receive allocations, this rule proposes the 2019 tribal allocation of Pacific whiting. This is an interim allocation not intended to set precedent for future allocations.

Tribal Allocation for 2019

In exchanges between NMFS and the Treaty Tribes during September 2018, the Makah Tribe indicated their intent to participate in the tribal Pacific whiting fishery in 2019 and requested 17.5 percent of the U.S. TAC. The Quinault Indian Nation and Quileute Indian Tribe both informed NMFS in December 2018 that they will not participate in the 2019 fishery. The Hoh Indian Tribe has in previous years indicated in conversations with NMFS that they have no plans to fish for whiting in the foreseeable future and will contact NMFS if that changes. NMFS will contact the Tribes during the proposed rule comment period to refine the 2019 allocation before allocating the final U.S. TAC between the tribal and non-tribal whiting fisheries. NMFS proposes a tribal allocation that accommodates the Makah Tribe's request, specifically 17.5 percent of the U.S. TAC. NMFS has determined that the current scientific information regarding the distribution and abundance of the coastal Pacific whiting stock indicates the 17.5 percent is within the range of the tribal treaty right to Pacific whiting.

The Joint Management Committee, which was established pursuant to the Agreement between the United States and Canada on Pacific Hake/Whiting

(the Agreement), is anticipated to recommend the coastwide and corresponding U.S./Canada TACs no later than March 25, 2019. The U.S. TAC is 73.88 percent of the coastwide TAC. Until this TAC is set, NMFS cannot propose a specific amount for the tribal allocation. The Pacific whiting fishery typically begins on May 15, and we expect to publish the final rule to set Pacific whiting specifications for 2019 by early May. Therefore, to allow for public input on the tribal allocation, NMFS is issuing this proposed rule without the final 2019 TAC.

To provide a basis for public input, NMFS is describing a range of potential tribal allocations in this proposed rule. We applied the proposed tribal allocation of 17.5 percent to the range of U.S. TACs over the last 10 years, 2009 through 2018 (plus or minus 25 percent to capture variability in stock abundance). The range of U.S. TACs in that time period was 135,939 mt (2009) to 441,433 mt (2017 and 2018). Applying the 25 percent variability results in a range of potential TACs of 101,954 mt to 551,791 mt for 2019. Using the proposed tribal allocation of 17.5 percent, the potential range of the tribal allocations for 2019 would between 17,842 mt and 96,563 mt.

Consideration of Chinook Salmon Bycatch Before Reapportioning Tribal Whiting

Chinook salmon, including some listed as threatened under the Endangered Species Act (ESA), are caught as bycatch in the Pacific whiting fishery. The potential effects of this has been considered numerous times in NMFS' ESA section 7(a)(2) biological opinions. Most recently, on December 11, 2017, NMFS completed an ESA section 7(a)(2) biological opinion on the effects of the Pacific Coast Groundfish FMP (which manages 90+ species, including Pacific whiting) on salmonids. Term and Condition 2c of the biological opinion states: *No later than May 15th, 2019, NMFS will amend the provisions regarding reapportionment of the treaty tribes' whiting allocation to the non-treaty sectors to require that NMFS consider the level of Chinook bycatch when determining whether to reapportion whiting.* This proposed rule would amend the Pacific Coast Groundfish fishery regulations to require this consideration. The purpose of this action is twofold. First, the regulatory changes would minimize impacts to Chinook salmon from the whiting fishery. Reapportioning whiting that would not otherwise be used allows the non-tribal whiting fishery to continue fishing, thereby potentially impacting Chinook salmon, which occurs as bycatch in that fishery. The second purpose is to protect the treaty rights of the tribes, by preventing a reapportionment of Pacific whiting that could cause the entire whiting fishery to close via automatic action measures outlined at § 660.60(d)(v), thereby limiting the tribal whiting fishery's opportunity to harvest their allocation.

Many factors could potentially be considered when determining a reapportionment's effect on listed Chinook salmon, including the status of Chinook salmon stocks caught in the whiting fishery, and location of the bycatch. However, the inseason data available about these factors is limited. In this action, NMFS proposes to require consideration of Chinook salmon bycatch rates and numbers prior to reapportioning tribal whiting. This consideration is required by NMFS' ESA and tribal obligations. NMFS requests comments on this approach.

This proposed rule would be implemented under authority of section 305(d) of the Magnuson-Stevens Act. With this proposed rule, NMFS, acting on behalf of the Secretary, would ensure that the FMP is implemented in a manner consistent with treaty rights of four Treaty Tribes to fish in their ''usual and accustomed grounds and stations'' in common with non-tribal citizens. *United States* v. *Washington,* 384 F. Supp. 313 (W.D. 1974).

NMFS notes that the public comment period for this proposed rule is 15 days. As a result of delays in this rulemaking related to the recent lapse in appropriations and the requirements to amend reallocation provisions and announce Pacific whiting harvest guidelines by the Pacific whiting season start date, May 15th, NMFS has determined that a 15-day comment period best balances the interest in allowing the public adequate time to comment on the proposed measures while implementing the management measures and announcing the Pacific whiting allocations by May 15th.

Classification

NMFS has preliminarily determined that the management measures for the 2019 Pacific whiting tribal fishery are consistent with the national standards of the Magnuson-Stevens Act and other applicable laws. In making the final determination, NMFS will take into account the data, views, and comments received during the comment period.

The Office of Management and Budget has determined that this proposed rule is not significant for purposes of Executive Order 12866.

As required by section 603 of the Regulatory Flexibility Act (RFA), an Initial Regulatory Flexibility Analysis (IRFA) was prepared. The IRFA describes the economic impact this proposed rule, if adopted, would have on small entities. A summary of the analysis follows. A copy of this analysis is available from NMFS.

Under the RFA, the term ''small entities'' includes small businesses, small organizations, and small governmental jurisdictions. The Small Business Administration has established size criteria for entities involved in the fishing industry that qualify as small businesses. A business involved in fish harvesting is a small business if it is independently owned and operated and not dominant in its field of operation (including its affiliates) and if it has combined annual receipts, not in excess of $11 million for all its affiliated operations worldwide (see 80 FR 81194, December 29, 2015). A wholesale business servicing the fishing industry is a small business if it employs 100 or fewer persons on a full time, part time, temporary, or other basis, at all its affiliated operations worldwide. A seafood processor is a small business if it is independently owned and operated, not dominant in its field of operation, and employs 750 or fewer persons on a full time, part time, temporary, or other basis, at all its affiliated operations worldwide. For purposes of rulemaking, NMFS is also applying the seafood processor standard to catcher processors because Pacific whiting Catcher-Processors (C/Ps) earn the majority of the revenue from processed seafood product.

This proposed rule would affect how Pacific whiting is allocated to the following sectors/programs: Tribal, Shorebased Individual Fishing Quota (IFQ) Program Trawl Fishery, Mothership (MS) Coop Program—Whiting At-sea Trawl Fishery, and C/P Coop Program—Whiting At-sea Trawl Fishery. The amount of Pacific whiting allocated to these sectors is based on the U.S. TAC.

We expect one tribal entity to fish in 2019. Tribes are not considered small entities for the purposes of RFA. Impacts to tribes are nevertheless considered in this analysis. As of January 2019, the Shorebased IFQ Program is composed of 174 Quota Share permits/accounts (136 of which were allocated whiting quota pounds), 128 vessel accounts (57 of which have received an initial transfer of whiting quota pounds) and 42 first receivers, three of which are designated as whiting-only receivers and 11 that may receive both whiting and non-whiting.

These regulations also directly affect participants in the MS Coop Program, a general term to describe the limited access program that applies to eligible harvesters and processors in the MS sector of the Pacific whiting at-sea trawl fishery. This program currently consists of six MS processor permits, and a catcher vessel fleet currently composed of a single coop, with 34 Mothership/Catcher Vessel (MS/CV) endorsed permits (with three permits each having two catch history assignments). These regulations also directly affect the C/P Coop Program, composed of 10 C/P endorsed permits owned by three companies that have formed a single coop. These co-ops are considered large entities from several perspectives; they have participants that are large entities, and have in total more than 750 employees worldwide including affiliates. Although there are three non-tribal sectors, many companies participate in two sectors and some participate in all three sectors. As part of the permit application processes for the non-tribal fisheries, based on a review of the Small Business Administration size criteria, permit applicants are asked if they considered themselves a ''small'' business, and they are asked to provide detailed ownership information. Data on employment worldwide, including affiliates, are not available for these companies, which generally operate in Alaska as well as the West Coast and may have operations in other countries as well. NMFS has limited entry permit holders self-report size status. For 2019, all ten CP permits reported they are not small businesses, as did nine mothership catcher vessels and one shorebased catcher vessel. After accounting for cross participation, multiple QS account holders, and affiliation through ownership, NMFS estimates that there are 103 non-tribal entities directly affected by these proposed regulations, 89 of which are considered ''small'' businesses.

This rule will allocate fish between tribal and non-tribal harvesters (a mixture of small and large businesses). Tribal fisheries consist of a mixture of fishing activities that are similar to the activities that non-tribal fisheries undertake. Tribal harvests may be delivered to both shoreside plants and motherships for processing. These processing facilities also process fish harvested by non-tribal fisheries. The effect of the tribal allocation on non-tribal fisheries will depend on the level of tribal harvests relative to their allocation and the reapportionment process. If the tribes do not harvest their entire allocation, there are opportunities during the year to reapportion unharvested tribal amounts to the non-tribal fleets. For example, in 2018 NMFS reapportioned 40,000 mt of the original 77,251 mt tribal allocation. This reapportionment was based on conversations with the tribes and the best information available at the time, which indicated that this amount would not limit tribal harvest opportunities for the remainder of the year. The reapportioning process allows unharvested tribal allocations of Pacific whiting to be fished by the non-tribal fleets, benefitting both large and small entities. The revised Pacific whiting allocations for 2018 following the reapportionment were: Tribal 37,251 mt, C/P Coop 136,912 mt; MS Coop 96,644 mt; and Shorebased IFQ Program 169,127 mt.

The prices for Pacific whiting are largely determined by the world market because most of the Pacific whiting harvested in the U.S. is exported. The U.S. Pacific whiting TAC is highly variable, as have subsequent harvests and ex-vessel revenues. For the years 2014 to 2018, the total Pacific whiting fishery (tribal and non-tribal) averaged harvests of approximately 267,400 mt annually. The 2018 U.S. non-tribal fishery had a catch of almost 318,000 mt, and the tribal fishery landed approximately 6,000 mt.

Impacts to Makah catcher vessels who elect to participate in the tribal fishery are measured with an estimate of ex-vessel revenue. In lieu of more complete information on tribal deliveries, total ex-vessel revenue is estimated with the 2018 average shoreside ex-vessel price of Pacific whiting, which was $165 per mt. At that price, the proposed 2019 tribal allocation (potentially 17,842–96,563 mt) would have an ex-vessel value between $2.9 million and $15.9 million.

NMFS considered two alternatives for this action: The ''No-Action'' and the ''Proposed Action.'' NMFS did not consider a broader range of alternatives to the proposed allocation. The tribal allocation is based primarily on the requests of the tribes. These requests reflect the level of participation in the fishery that will allow them to exercise their treaty right to fish for Pacific whiting. Under the Proposed Action alternative, NMFS proposes to set the tribal allocation percentage at 17.5 percent, as requested by the Tribes. This would yield a tribal allocation of between 17,842 and 96,563 mt for 2019. Consideration of a percentage lower than the tribal request of 17.5 percent is not appropriate in this instance. As a matter of policy, NMFS has historically supported the harvest levels requested by the Tribes. Based on the information available to NMFS, the tribal request is within their tribal treaty rights. A higher percentage would arguably also be within the scope of the treaty right. However, a higher percentage would unnecessarily limit the non-tribal fishery.

Under the no-action alternative, NMFS would not make an allocation to the tribal sector. This alternative was considered, but the regulatory framework provides for a tribal allocation on an annual basis only. Therefore, the no-action alternative would result in no allocation of Pacific whiting to the tribal sector in 2019, which would be inconsistent with NMFS' responsibility to manage the fishery consistent with the tribes' treaty rights. Given that there is a tribal request for allocation in 2019, this alternative received no further consideration.

While the reapportionment consideration of Chinook bycatch may negatively impact both large and small entities in the event of a high bycatch year, there are no alternatives identified that would be consistent with the applicable ESA statute that would also minimize any significant economic impact of the proposed rule on small entities.

NMFS believes this proposed rule would not adversely affect small entities. The reapportioning process allows unharvested tribal allocations of Pacific whiting, fished by small entities, to be fished by the non-tribal fleets, benefitting both large and small entities. NMFS has prepared an IRFA and is requesting comments on this conclusion. See **ADDRESSES**.

There are no reporting, recordkeeping or other compliance requirements in the proposed rule.

No Federal rules have been identified that duplicate, overlap, or conflict with this action.

Pursuant to Executive Order 13175, this proposed rule was developed after meaningful consultation and collaboration with tribal officials from the area covered by the FMP. Consistent with the Magnuson-Stevens Act at 16 U.S.C. 1852(b)(5), one of the voting members of the Pacific Fishery Management Council is a representative of an Indian tribe with federally recognized fishing rights from the area of the Council's jurisdiction. In addition, NMFS has coordinated specifically with the tribes interested in the Pacific whiting fishery regarding the issues addressed by this rule.

List of Subjects in 50 CFR Part 660

Fisheries, Fishing, Indian Fisheries.

Dated: March 11, 2019.

Chris Oliver,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 660 is proposed to be amended as follows:

PART 660—FISHERIES OFF WEST COAST STATES

■ 1. The authority citation for part 660 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.* and 16 U.S.C. 773 *et seq.,* and 16 U.S.C. 7001 *et seq.*

■ 2. In § 660.50, revise paragraph (f)(4) to read as follows:

§ 660.50 Pacific Coast treaty Indian fisheries.

* * * * *

(f) * * *

(4) *Pacific whiting.* The tribal allocation for 2019 will be 17.5 percent of the U.S. TAC.

* * * * *

■ 3. Amend § 660.131 by revising paragraph (h)(4) and adding (h)(5) to read as follows:

§ 660.131 Pacific whiting fishery management measures.

* * * * *

(h) * * *

(4) Estimates of the portion of the tribal allocation that will not be used by the end of the fishing year will be based on the best information available to the Regional Administrator.

(i) *Salmon bycatch.* This fishery may be closed through automatic action at § 660.60(d)(1)(v) and (vi).

(ii) [Reserved]

(5) Prior to reapportionment, NMFS will consider Chinook salmon take numbers and bycatch rates in each sector of the Pacific whiting fishery, in order to prevent a reapportionment that would limit Pacific Coast treaty Indian Tribes' access to the tribal allocation by triggering inseason closure of the Pacific whiting fishery as described at § 660.60(d)(1)(v).

[FR Doc. 2019–04785 Filed 3–14–19; 8:45 am]

BILLING CODE 3510–22–P

Notices

Federal Register
Vol. 84, No. 51
Friday, March 15, 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.

AGENCY FOR INTERNATIONAL DEVELOPMENT

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request

AGENCY: U.S. Agency for International Development.

ACTION: Notice of information collection.

SUMMARY: U.S. Agency for International Development (USAID), 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 the following new information collection, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. Comments are requested concerning: (a) Whether the proposed or continuing collections of information are necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of the information on the respondents.

DATES: All comments should be submitted within 60 calendar days from the date of this publication.

ADDRESSES: Interested persons are invited to submit comments regarding the proposed information collection to Tara Hill, USAID, Global Development Lab, Center for Development Research (USAID/LAB/CDR) at *thill@usaid.gov*.

FOR FURTHER INFORMATION CONTACT: Tara Hill, Acting Division Chief, HESN 2.0 Awards Management Division (USAID/Global Development Lab), *thill@usaid.gov* or 202–712–0589.

SUPPLEMENTARY INFORMATION:

I. Abstract

In summer 2018, USAID's Global Development Lab awarded the Research Technical Assistance Center (RTAC) Contract to NORC, at the University of Chicago. The principal goal of RTAC is to establish, maintain, and utilize a diverse network of university-based research experts who can be available to apply to fill USAID's needs on an on-demand basis. The RTAC research network is required to demonstrate regional, technical, and demographic diversity and has targeted participation goals for female researchers, researchers from minority serving institutions (MSIs), and researchers from developing countries.

The RTAC website will provide information to potential researchers on USAID research activities and previous projects and is intended to offer a publicly available and accessible way for interested parties to ''apply'' to be included in the RTAC Partner Pool (a pool of researchers that USAID can than call on to apply for consideration as subcontractors to complete unique project requirements for research over the next four years.) To ''apply'' to be included in the RTAC Partner Pool, interested parties will click on a website button that will be visible in the top corner of the *www.rtachesn.org* website. Via the website button they will be invited to complete the identified application questions so that they can apply to be included in the RTAC Partner Pool (and hence be available to receive information on potential future subcontract work under the RTAC contract).

II. Method of Collection

Electronic.

III. Data

Title: Research Technical Assistance Center (RTAC) Partner Pool Application.
OMB Number: OMB 0412–XXXX.
Expiration Date: Not yet known.
Type of Request: New collection.
Title: Certification of Identity.
OMB Number: OMB 0412–0589.
Form Number: AID Form 507–1.
Affected Public: Individuals.
Estimated Number of Respondents: 600.
Estimated Total Annual Burden Hours: 50.

IV. Request for Comments

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of USAID, including whether the information collected has practical utility; (2) the accuracy of USAID's estimate of the burden (including both hours and cost) of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents.

Comments submitted in response to this notice will be summarized and included in the request for OMB approval of this information collection. The comments will also become a matter of public record.

Ticora V. Jones,
Center Director, Center for Development Research, Global Development Lab, U.S. Agency for International Development.

[FR Doc. 2019–04772 Filed 3–14–19; 8:45 am]
BILLING CODE P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Doc. No. AMS–FTPP–19–0025]

Notice of Request for Extension and Revision of a Currently Approved Information Collection

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, for an extension of and revision to the currently approved information collection Swine Contract Library. OMB approved this information collection as OMB 0580–0021 under Grain Inspection, Packers and Stockyards (GIPSA). Due to the realignment of offices authorized by the Secretary's memorandum dated November 14, 2017, which eliminated the GIPSA as a standalone agency, the Swine Contract Library activities formerly part of GIPSA

are now assigned a new OMB control number of 0581–0311.

DATES: Comments on this notice must be received by May 14, 2019 to be assured of consideration.

ADDRESSES: Interested persons are invited to submit comments concerning this notice by using the electronic process available at *www.regulations.gov.* Written comments may also be submitted to Stuart Frank, Director, Packers and Stockyards Division, Agricultural Marketing Service, U.S. Department of Agriculture, 1400 Independence Ave. SW, Room 2507, Washington, DC 20250, Tel: 202–720–7051, Fax: 202–690–3207. All comments should reference the docket number (same number as above assigned by Originating Program), the date, and the page number of this issue of the **Federal Register**. All comments received will be posted without change, including any personal information provided, at *www.regulations.gov* and will be included in the record and made available to the public.

FOR FURTHER INFORMATION CONTACT: Contact Gayle L. Pounds-Barnett, Economist, Packers and Stockyards Division, 210 Walnut Street, Room 317, Des Moines, Iowa 50309 Direct Tel: (515) 323–2541, Fax: (515) 323–2590, *gayle.l.barnett@usda.gov.*

SUPPLEMENTARY INFORMATION:

Title: Swine Contract Library.

OMB Number: 0581–0311.

Expiration Date of Approval: 08/31/2019.

Type of Request: Extension and revision of a currently approved information collection.

Abstract: The information collection and recordkeeping requirements for the Swine Contract Library are essential to maintaining the mandatory library of swine marketing contracts and reporting the number of swine contracted for delivery. Currently 33 companies (packers) are required to file contracts and report certain information on swine deliveries for a total of 55 locations (plants) that they either operate or at which they have swine slaughtered. We expect the overall number of plants and packers to remain relatively constant, but the specific packers required to report will vary with consolidation and construction in the industry.

Packers are required to report information for individual plants. The information collection burden estimate provided below is based on time and cost requirements at the plant level. Consequently, packers that report for more than one plant would bear a cost that would be a multiple of the per-plant estimates.

There are two types of information collections required for the Swine Contract Library.

The first information collection requirement consists of submitting example contracts. Initially, a packer submits example contracts currently in effect or available for each swine processing plant that is subject to the regulations. Subsequently, a packer submits example contracts for any offered, new, or amended contracts that vary from previously submitted contracts in regard to the base price determination, the application of a ledger or accrual account, carcass merit premium and discount schedules (including the determination of the lean percent or other merit of the carcass that is used to determine the amount of the premiums and discounts and how those premiums and discounts are applied), or the use and amount of noncarcass merit premiums or discounts. The initial submission of example contracts requires more time than subsequent filings of new contracts or changes, as packers initially need to review all their contracts to identify the unique types that need to be represented by an example contract submitted to AMS. Thereafter, subsequent filings require a minimal amount of effort on the part of packers, as only example contracts that represent a new or different type need to be filed.

Packers are required to submit both written and verbal contracts. Packers must document verbal contracts which adds to their existing recordkeeping systems in order to comply with this requirement. The optional ''Verbal Contract Optional Documentation Sheet,'' (Form PSD 343) provides a format to document the verbal agreement. A ''Contract Submission Cover Sheet'' (Form PSD 342) must accompany each contract submission to identify the contract, the plant or plants for which the contract is valid, and the contact person.

The second information collection requirement is a monthly filing of summary information on ''Monthly Report: Estimates of Swine To Be Delivered Under Contract'' (Form PSD 341). The form for the monthly filing is simple and brief. For new packers required to start reporting, this data should be available in the packers' existing record system. We encourage electronic submission and provide the necessary information on procedures to submit data to AMS electronically. A procedure exists to request a waiver on submitting Form PSD 341 for respondents that do not currently use contracts.

The time requirements estimates used for the burden estimates below were developed in consultation with AMS personnel knowledgeable in the industry's recordkeeping practices. The estimates also reflect our experience in assembling large amount of data during the course of numerous investigations involving use of data collected from the industry. Hourly wage estimates reflect average wages taken from the BLS Occupational Employment Statistics in the states where current respondents are located. Our experience indicates that a variety of positions are used by various companies to complete the reporting and recordkeeping tasks. Wages are therefore estimated for the most common level of employee performing these tasks.

(1) Example Contracts

a. Contract Submission Cover Sheet (PSD 342)

Estimate of Burden: The reporting burden for contract submission estimate includes 4 hours per plant for an initial review of all contracts to categorize them into types and identify unique examples, plus an additional 0.25 hours per unique contract identified during the initial review to submit an example of that contract. After the initial filing, the reporting burden estimate includes 0.25 hours per plant to submit an example of each new or amended contract.

Respondents: Packers required to report information for the Swine Contract Library.

Estimated Number of Respondents: 33 packers (total of 55 plants).

Estimated Number of Responses per Plant: Number of responses per plant varies. Some plants could have no contracts, while others could have up to 80 contracts. We receive an average of six example contracts per plant per year for offered contracts and for amended existing or available contracts.

Estimated Total Annual Burden on Respondents: Initial filing: 6 total hours for the initial filing of examples of existing contracts by all plants newly subject to the regulations. Based on changes in the industry, we anticipate one new plant to become subject to the regulations each year. Calculated as follows: 4 hours per plant for initial review × 1 new plant = 4 hours for initial review; 0.25 hours per contract (reporting) × 6 example contracts per plant × 1 new plant = 1.5 hours; 0.083 hours per contract (recordkeeping) × 6 contracts per plant × 1 new plant = .5 hours; 4 hours + 1.5 hours + .5 hours = 6 total hours.

Subsequently, 81 total hours annually for all subsequent filing of example contracts by all plants combined, based on an average of 6 newly offered or amended contracts annually.

Calculated as follows: 0.25 hours per contract (reporting) × 6 example contracts per plant × 55 plants = 82.5 hours. 0.083 hours per contract (recordkeeping) × 6 example contracts per plant × 55 plants = 27.5 hours. 82.5 hours + 27.5 hours = 110 hours.

Total Cost: Initial filing $143.25 for one expected new plant. Calculated as follows: 5.5 hours × $24.50 per hour = $134.75; 0.5 hours × $17 per hour = $8.50; $134.50 + $8.50 = $143.25.

Subsequently, $2488.75 annually for all plants combined for submission of subsequent filings. Calculated as follows: 82.5 hours × $24.50 per hour = $2021.25; 27.5 × $17 per hour = $467.50; $2021.25 + $467.50 = $2488.75.

b. Verbal Contract Optional Documentation Sheet (PSD 343)

Estimate of Burden: The reporting burden for documenting verbal contracts using PSD 343 includes 0.25 hours per verbal contract document. Each contract documented using PSD 343 should be accompanied by PSD 342 therefor reporting burden is captured in estimates for PSD 342.

Respondents: Packers required to report information for the Swine Contract Library.

Estimated Number of Respondents: 10 plants.

Estimated Number of Responses per Plant: 1.

Estimated Total Annual Burden on Respondents: 2.50 total hours calculated as follows: 0.25 hours per contract (recordkeeping) × 1 contract per plant × 10 plants = 2.5 hours.

Total Cost: $133.13 for all verbal contracts using PSD 343 calculated as follows 2.5 hours × $53.25 per hour = $133.13.

(2) Monthly Summary

a. Monthly Report: Estimate of Swine To Be Delivered Under Contract (PSD 341)

Estimate of Burden: The burden estimate for monthly summary submission includes a one-time set up of 1 hour for a packer that chose to create a spreadsheet or database for recordkeeping and preparation of monthly estimates and a 2 hour burden for a packer to develop procedures to extract and format the required information and to develop an interface between the packer's electronic recordkeeping system and AMS' system. The monthly recordkeeping burden is estimated at 2.5 hours per plant. The reporting burden for compiling data, completing and submitting the form includes an average of 2 hours per manually prepared and submitted (by mail or facsimile) report and 1 hour per electronically prepared and submitted report. There is an estimated additional.

Respondents: Packers required to report information for the Swine Contract Library, less packers filing waiver requests.

Estimated Number of Respondents: 25 packers (total of 47 plants).

Estimated Number of Responses per Plant: 12 (1 per month for 12 months).

Estimated Total Annual Burden on Respondents: Initial filing: 3 hours per new plant. Calculated as follows: 1 hour per plant (reporting) × 1 new plant = 1 hour; 2 hours per plant (recordkeeping) × 1 new plant = 2 hours; 1 hour + 2 hours = 3 hours.

Subsequently, 1998 total hours for all submitting plants. Calculated as follows:

Manual filing: 2 hours per response × 12 responses per plant (reporting) × 2 plants = 48 hours; 2.5 hours per month per plant (recordkeeping) × 12 months × 2 plants = 60 hours; 48 hours + 60 hours = 108 hours.

Electronic filing: 1 hour per response × 12 responses per plant (reporting) × 45 plants = 540 hours; 2.5 hours per month per plant (recordkeeping) × 12 months × 45 plants = 1350 hours; 540 hours + 1350 hours = 1890 hours; 1890 hours + 108 hours = 1998 hours.

Total Cost: Initial filing $124.50 for one expected new plant. Calculated as follows: 2 hours (reporting) × $41.50 per hour = $83; 1 hours (recordkeeping) × $41.50 per hour = $41.50; $83+ $41.50 = $124.50.

Subsequently, $37347 for all submitting plants. Calculated as follows:

Manual filing: 48 hours (reporting) × $22.75 = $192; 60 hours (recordkeeping) × $17 = $1020; $192+ $1020 = $2112.

Electronic filing: 540 hours (reporting) × 22.75 = 12285; 1350 hours (recordkeeping) × $17 per hour = $22950; $12285 + $22950 = $35235 $2112 + $35235 = $37347.

b. Annual Waiver Request

Estimate of Burden: The burden estimate for annual waiver request includes 0.25 hours for documents and submitting a statement to AMS confirming that the company or plant does not currently have any marketing contracts that are subject to the regulation.

Respondents: Packers required to report information for the Swine Contract Library, less packers filing waiver requests.

Estimated Number of Respondents: 8 packers (total of 8 plants).

Estimated Number of Responses per Plant: 1.

Estimated Total Annual Burden on Respondents: 2.67 hours. Calculated as follows: 0.25 hours per plant (reporting) × 8 plants = 2 hours; .083 hours per plant (recordkeeping) × 8 plants = .67 hours; 2 hours + .67 hours = 2.67 hours

Total Cost: $117.83 for all waivered plants. Calculated as follows: 2 hours (reporting) × $53.25 = 106.5; .67 hours (recordkeeping) × $17 = $11.33; $106.50 + $11.33 = $117.83.

The Paperwork Reduction Act also requires AMS to measure the recordkeeping burden. Under the Packers and Stockyards Act and its existing regulations, each packer is required to maintain and make available upon request any records necessary to verify information on all transactions between the packer and producers from whom the packer obtains swine for slaughter. Records that packers are required to maintain under existing regulations would meet the requirements for verifying the accuracy of information required to be reported for the Swine Contract Library. These records include original contracts, agreements, receipts, schedules, and other records associated with any transaction related to the purchase, pricing, and delivery of swine for slaughter under the terms of marketing contracts. Additional annual costs of maintaining records would be nominal since packers are required to store and maintain such records as a matter of normal business practice and in conformity with existing regulations.

As required by the Paperwork Reduction Act (44 U.S.C. 3506(c)(2)(A)) and its implementing regulations (5 CFR 1320.8(d)(1)), AMS specifically requests comment 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. Comments may be sent to Stuart Frank, Director, Packers and Stockyards Division, Agricultural Marketing

Service, U.S. Department of Agriculture, 1400 Independence Ave. SW, Room 2507, Washington, DC, 20250, Tel: 202–720–7051, Fax: 202–690–3207.

All comments received will be available for public inspection during regular business hours at the same address.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will become a matter of public record.

Dated: March 11, 2019.

Erin Morris,

Associate Administrator, Agricultural Marketing Service.

[FR Doc. 2019–04862 Filed 3–14–19; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Docket No. AMS–SC–18–0090; SC19–986–1]

Pecans Grown in the States of Alabama, Arkansas, Arizona, California, Florida, Georgia, Kansas, Louisiana, Missouri, Mississippi, North Carolina, New Mexico, Oklahoma, South Carolina, and Texas; Notice of Request for Extension and Revision of a Currently Approved Information Collection

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 an extension for and revision to a currently approved information collection for Pecans Grown in the States of Alabama, Arkansas, Arizona, California, Florida, Georgia, Kansas, Louisiana, Missouri, Mississippi, North Carolina, New Mexico, Oklahoma, South Carolina, and Texas, Marketing Order No. 986.

DATES: Pursuant to the Paperwork Reduction Act, comments on information collection burden that would result from this notice must be received by May 14, 2019.

ADDRESSES: Interested persons are invited to submit written comments concerning this notice. 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: *www.regulations.gov.* Comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be available for public inspection in the Office of the Docket Clerk during regular business hours, or can be viewed at: *www.regulations.gov.* All comments submitted in response to this notice 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: Fiona Pexton, Marketing Order and Agreement Division, Specialty Crop Program, AMS, USDA, 1400 Independence Avenue SW, STOP 0237, Room 1406–S, Washington, DC 20250–0237; Telephone: (202) 720–2491 Fax: (202) 720–8938, or Email: *Fiona.Pexton@usda.gov.*

Small businesses may request information on this notice 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@usda.gov.*

SUPPLEMENTARY INFORMATION:

Title: Pecans Grown in multiple states, Marketing Order No. 981.

OMB Number: 0581–0291.

Expiration Date of Approval: August 31, 2019.

Type of Request: Extension and revision of a currently approved information collection.

Abstract: Marketing order programs provide an opportunity for producers of fresh fruits, vegetables, and specialty crops, in a specified production area, to work together to solve marketing problems that cannot be solved individually. Marketing order regulations help ensure adequate supplies of high quality product and adequate returns to producers. Marketing orders are authorized by the Agricultural Marketing Agreement Act of 1937 (Act), as amended (7 U.S.C. 601–674). The Secretary of Agriculture oversees these operations and issues regulations recommended by a committee of representatives from the respective commodity industry.

The purpose of this notice is to solicit public comments on the sixteen forms in this OMB package which are described below. Two ballot forms for committee nominations (SC–307 and SC–308), two grower and sheller nomination forms (SC–309 and SC–310) as well as two background and acceptance statements forms for growers and shellers and public members (SC–8 and SC–9) and a grower referendum ballot (SC–313). Two marketing agreements (SC–242 and SC–242A) are also included. In addition, this package includes seven reporting forms the American Pecan Council uses to track shipments and inventory. The Summary Report (Form 1); Report of Shipment and Inventory on Hand (Form 2); Export by Country of Destination (Form 3); Inter-handler Transfer (Form 4); Inshell Pecan Exported to Mexico for Shelling and Returned to the United States as Shelled Meat (Form 5); Pecans Purchased Outside of the United States (Form 6); and Year-end Inventory Report (Form 7). The number of producers has changed from 5,500 to 2,500 since the last renewal. Now that the marketing order has been in place for a few years, the industry has a better understanding of the actual numbers of producers in the industry.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average .31 hours per response (rounded).

Respondents: Pecan producers, handlers, and shellers.

Estimated Number of Respondents: 2,750.

Estimated Total Annual of Responses: 9,344.

Estimated Number of Responses per Respondent: 3.40 (rounded).

Estimated Total Annual Burden on Respondents: 2,931 (rounded).

Comments: Comments are invited on: (1) Whether the proposed collection of the 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 through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Dated: March 12, 2019.

Bruce Summers,

Administrator, Agricultural Marketing Service.

[FR Doc. 2019–04861 Filed 3–14–19; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Doc. No. AMS–FV–19–0018, SC–19–327]

Request for Renewal of OMB 0581–0125 Regulations Governing Inspection Certification of Fresh & Processed Fruits, Vegetables, & Other Products

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice of renewal.

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 the renewal of currently approved information collection of 0581–0125 Regulations Governing Inspection Certification of Fresh & Processed Fruits, Vegetables, & Other Products.

DATES: Comments on this notice must be received by May 14, 2019 to be considered.

ADDRESSES: Interested persons are invited to submit comments concerning this notice. Comments should be submitted online at *www.regulations.gov* or sent to ToiAyna Thompson, U.S. Department of Agriculture (USDA), 1400 Independence Avenue SW, Stop 0247, Room 1543–S Washington, DC 20250–0250, or by facsimile to (202) 690–3824. All comments should reference the document number, and 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 *http://www.regulations.gov* and will be made available for public inspection at the above physical address during regular business hours.

FOR FURTHER INFORMATION CONTACT: Contact ToiAyna Thompson, Management Support Staff, Specialty Crops Inspection Division, Specialty Crops Program, U.S. Department of Agriculture, STOP 0247, 1400 Independence Avenue SW, Washington, DC 20250–0250; telephone: (202) 720–0867; FAX: (202) 690–3824; email *Toiayna.Thompson@ams.usda.gov;* or, internet: *http://www.regulations.gov.*

SUPPLEMENTARY INFORMATION: With this request for a renewal of a currently approved Information Collection, the total number of responses and burden hours will increase slightly from the previously approved collection due to the addition of one form. This form is used by new applicants to provide their billing information or allowing existing applicants to update their contact information.

Title: Regulations Governing Inspection Certification of Fresh & Processed Fruits, Vegetables, & Other Products.

OMB Number: 0581–0125.

Expiration Date of Approval: 3 years from approval.

Type of Request: Renewal of a currently approved information collection.

Abstract: The Agricultural Marketing Act of 1946, (7 U.S.C. 1621–1627) as amended authorizes the Agricultural Marketing Service, Specialty Crops Inspection Division to provide inspection and certification of the quality and condition of agricultural products. The Specialty Crops Inspection Division provides a nationwide inspection, grading, and auditing service for fresh and processed fruits, vegetables and other products for shippers, importers, processors, sellers, buyers, and other financially interested parties on a user-fee basis. The use of services is voluntary and is made available only upon request or when specified by a special program or contract. Information is needed to carry out the inspection, grading, or auditing services. Such information includes: The name and location of the person or company requesting services; the type and location of the product to be inspected; the type of inspection being requested; and information that will identify the product or type and scope of audit requested. This is a request for renewal of currently approved OMB 0581–0125 Regulations Governing Inspection Certification of Fresh & Processed Fruits, Vegetables, & Other Products.

New Form Title: SC–430 Specialty Crops Inspection Division Vendor Form

Estimate of Burden: Public reporting burden for this new form is estimated to average 0.3 hours per response.

Respondents: Business or other for-profit, nonprofit organization, farms or Federal, state, local or Tribal governments.

Estimated Number of Respondents: 1,500.

Estimated Total Annual Responses: 1,500.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 450 hours.

OMB 0581–0125 Regulations Governing Inspection, Certification, Standards and Audit Services for Fresh Fruits, Vegetables and Other Products

Estimate of Burden: Public reporting burden for this collection is estimated to average 0.13 hours per response.

Respondents: Business or other for-profit, nonprofit organization, farms or Federal, state, local or Tribal governments.

Estimated Number of Respondents: 60,000.

Estimated Total Annual Responses: 194,176.

Estimated Number of Responses per Respondent: 3.24.

Estimated Total Annual Burden on Respondents: 25,733 hours.

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 use; (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. Comments may be sent to ToiAyna Thompson, Management Support Staff, Specialty Crops Inspection Division, Specialty Crops Program, U.S. Department of Agriculture, STOP 0247, 1400 Independence Avenue SW, Washington, DC 20250; telephone: (202) 720–0867; FAX: (202) 690–3824; or internet: *http://www.regulations.gov.*

All comments received will be available for public inspection during regular business hours at the same address. All responses to this notice will be summarized and included in the request for OMB approval. All comments will become a matter of public record.

Dated: March 12, 2019.

Erin Morris,

Associate Administrator.

[FR Doc. 2019–04859 Filed 3–14–19; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

March 12, 2019.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments are requested regarding (1) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments regarding this information collection received by April 15, 2019 will be considered. Written comments should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), New Executive Office Building, 725 17th Street NW, Washington, DC 20502. Commenters are encouraged to submit their comments to OMB via email to: *OIRA_Submission@OMB.EOP.GOV* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Copies of the submission(s) may be obtained by calling (202) 720–8958.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Economic Research Service

Title: Generic Clearance for Survey Research Studies.

OMB Control Number: 0536–0073.

Summary of Collection: The Economic Research Service (ERS) of the U.S. Department of Agriculture is requesting approval for a generic clearance that will allow them to conduct research to improve the quality of data collection by developing, testing, and evaluating its survey instruments, methodologies, technology, interview processes, and respondent recruitment protocols. The primary objective of ERS is providing timely research and analysis to public and private decision makers on topics related to agriculture, food, the environment, and rural America. Data collection for this collection is authorized by the 7 U.S.C. 2204(a).

Need and Use of the Information: The information collected will be used by staff from the ERS and sponsoring agencies to evaluate and improve the quality of the data in the surveys and censuses that are ultimately conducted. Specifically, the information will be used to reduce respondent burden while simultaneously improving the quality of the data collected in these surveys. This clearance involves one-time questionnaire and/or procedural development activities for each survey that is connected to the clearance. If this project were not carried out, the quality of the data collected in the surveys would suffer.

Description of Respondents: Individuals or households; Business or other for-profit; Not-for-profit institutions; Farms; State, Local or Tribal Government.

Number of Respondents: 1,815.

Frequency of Responses: Reporting: Annually.

Total Burden Hours: 3,630.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2019–04831 Filed 3–14–19; 8:45 am]

BILLING CODE 3410–18–P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

March 12, 2019.

The Department of Agriculture will submit the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13 on or after the date of publication of this notice. Comments are requested regarding: (1) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), New Executive Office Building, Washington, DC; New Executive Office Building, 725 17th Street NW, Washington, DC 20503. Commenters are encouraged to submit their comments to OMB via email to: *OIRA_Submission@omb.eop.gov* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602.

Comments regarding these information collections are best assured of having their full effect if received by April 15, 2019. Copies of the submission(s) may be obtained by calling (202) 720–8681.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

National Agricultural Statistics Service

Title: Cold Storage.

OMB Control Number: 0535–0001.

Summary of Collection: The primary objective of the National Agricultural Statistics Service (NASS) is to prepare and issue State and national estimates of crop and livestock production, value and disposition. The monthly Cold Storage Survey provides information on national supplies of food in refrigerated storage facilities. A biennial survey of refrigerated warehouses is also conducted to provide a benchmark of the capacity available for refrigerated storage of the nation's food supply. The data will be collected under the authority of 7 U.S.C. 2204(a). This statue specifies ''The Secretary of Agriculture shall procure and preserve all information concerning agriculture which he can obtain . . . by the collection of statistics . . . and shall distribute them among agriculturists.''

Need and Use of the Information: USDA agencies such as the World Agricultural Outlook Board, Economic Research Service, and Agricultural Marketing Service use this information from the Cold Storage report in setting

and administering government commodity programs and in supply and demand analysis. Included in the report are stocks of pork bellies, frozen orange juice concentrate, butter, and cheese which are traded on the Chicago Board of Trade. The timing and frequency of the surveys have evolved to meet the needs of producers, facilities, agribusinesses, and government agencies.

Description of Respondents: Business or other for-profit.

Number of Respondents: 1,584.

Frequency of Responses: Reporting: Monthly; Biennially.

Total Burden Hours: 4,954.

National Agricultural Statistics Service

Title: Custom Work Survey.

OMB Control Number: 0535–NEW.

Summary of Collection: The primary objective of the National Agricultural Statistics Service (NASS) is to prepare and issue State and national estimates of crop and livestock production, value and disposition. This project will concentrate on agricultural operations that have knowledge of rates for custom agricultural work. Custom agricultural work or simply ''custom work'' is any work completed by others which includes the costs for labor, equipment and fuel for a pre-determined price which will be referred to as a ''custom rate.''

Need and Use of the Information: Data collected under this docket are for cooperative agreements between the National Agricultural Statistics Service (NASS) and other cooperators including North Dakota State University and Oklahoma State University. The purpose of the survey is to collect custom rates for custom agricultural work.

Description of Respondents: Business or other for-profit.

Number of Respondents: 41,500.

Frequency of Responses: Reporting: Annually.

Total Burden Hours: 15,024.

National Agricultural Statistics Service

Title: Turfgrass Economic Survey.

OMB Control Number: 0535–NEW.

Summary of Collection: The primary objective of the National Agricultural Statistics Service (NASS) is to prepare and issue State and national estimates of crop and livestock production, value and disposition. This project will collect data from a sample of homeowners, golf courses, cemeteries, sod producers, turfgrass service providers, and commercial businesses with turfgrass in the State of New Jersey. The reference period will be the previous calendar year. The survey will be conducted annually if funding allows. This data collection is voluntary.

Need and Use of the Information: The purpose of this survey is to collect economic information from a sample of homeowners, golf courses, cemeteries, sod producers, turfgrass service providers, and commercial businesses with turfgrass in New Jersey. Data collected will reference the previous calendar year. The summarized data will be used by the New Jersey State Department of Agriculture and Land Grant University to: (1) Evaluate the magnitude of the New Jersey turfgrass industry in terms of number of acres maintained, number of workers, turf related expenses, and its total contribution to the New Jersey economy, and (2) to characterize the nature of New Jersey's turfgrass industry (*i.e.,* species of turfgrass used, product sales, market distribution channels, and maintenance practices).

Description of Respondents: Business or other for-profit.

Number of Respondents: 1,400.

Frequency of Responses: Reporting: Annually.

Total Burden Hours: 1,013.

Kimble Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2019–04868 Filed 3–14–19; 8:45 am]

BILLING CODE 3410–20–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2019–0008]

Notice of Request for Revision to and Extension of Approval of an Information Collection; Importation of Sand Pears From China

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Revision to and extension of approval of an information collection; comment request.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Animal and Plant Health Inspection Service's intention to request a revision to and extension of approval of an information collection associated with the regulations for the importation of sand pears from China into the United States.

DATES: We will consider all comments that we receive on or before May 14, 2019.

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

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov/#!docketDetail;D=APHIS-2019-0008.*
- *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS–2019–0008, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road, Unit 118, Riverdale, MD 20737–1238.

Supporting documents and any comments we receive on this docket may be viewed at *http://www.regulations.gov/#!docketDetail;D=APHIS-2019-0008* or in our reading room, which is located in Room 1141 of the USDA South Building, 14th Street and Independence Avenue SW, Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799–7039 before coming.

FOR FURTHER INFORMATION CONTACT: For information on the regulations for the importation of sand pears from China, contact Mr. Tony Roman, Senior Regulatory Policy Specialist, RCC, IRM, PHP, PPQ, APHIS, 4700 River Road, Unit 133, Riverdale, MD 20737; (301) 851–2242. For more detailed information on the information collection, contact Ms. Kimberly Hardy, APHIS' Information Collection Coordinator, at (301) 851–2483.

SUPPLEMENTARY INFORMATION:

Title: Importation of Sand Pears From China.

OMB Control Number: 0579–0390.

Type of Request: Revision to and extension of approval of an information collection.

Abstract: The Plant Protection Act (PPA, 7 U.S.C. 7701 *et seq.*) authorizes the Secretary of Agriculture to restrict the importation, entry, or interstate movement of plants, plant products, and other articles to prevent the introduction of plant pests into the United States or their dissemination within the United States. Regulations authorized by the PPA concerning the importation of fruits and vegetables into the United States from certain parts of the world are contained in in ''Subpart L-Fruits and Vegetables'' (7 CFR 319.56–1 through 319.56–12, referred to below as the regulations).

In accordance with the regulations, sand pears from China may be imported into the United States under certain conditions to prevent the introduction of plant pests into the United States. The regulations require the use of information collection activities, including testing and certification of propagative material, operational workplan, production site and

packinghouse registration, inspection of registered production sites, investigation for recertification of production sites, packinghouse tracking system, packinghouse inspection, handling procedures, labeling of cartons, trapping system, recordkeeping of trap location, packinghouse notification of pest detection, mitigation measures upon *Bactrocera dorsalis* detection at production sites and packinghouses, cold treatment facility audits and monitoring, notice of arrival, emergency action notification, and phytosanitary certificates.

We are asking the Office of Management and Budget (OMB) to approve our use of these information collection activities, as described, for an additional 3 years.

The purpose of this notice is to solicit comments from the public (as well as affected agencies) concerning our information collection. These comments will help us:

(1) Evaluate whether the collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, through use, as appropriate, of automated, electronic, mechanical, and other collection technologies; *e.g.,* permitting electronic submission of responses.

Estimate of burden: The public burden for this collection of information is estimated to average 0.007 hours per response.

Respondents: Producers and importers of sand pears from China and national plant protection organization officials of China.

Estimated annual number of respondents: 30.

Estimated annual number of responses per respondent: 2,019.

Estimated annual number of responses: 60,556.

Estimated total annual burden on respondents: 431 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Done in Washington, DC, this 12th day of March 2019.

Kevin Shea,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2019–04858 Filed 3–14–19; 8:45 am]

BILLING CODE 3410–34–P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Alabama Advisory Committee To Discuss Civil Rights Topics in the State

AGENCY: U.S. Commission on Civil Rights.

ACTION: Announcement of meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act that the Alabama Advisory Committee (Committee) will hold a meeting on Monday, March 25, 2019, at 2:00 p.m. (Central) for the purpose discussing civil rights topics in the state.

DATES: The meeting will be held on Monday, March 25, 2019, at 2:00 p.m. (Central).

Public Call Information: Dial: 877–260–1479, Conference ID: 8315901.

FOR FURTHER INFORMATION CONTACT: David Barreras, DFO, at *dbarreras@usccr.gov* or 312–353–8311.

SUPPLEMENTARY INFORMATION: Members of the public can listen to the discussion. This meeting is available to the public through the following toll-free call-in number: 877–260–1479, conference ID: 8315901. Any interested member of the public may call this number and listen to the meeting. An open comment period will be provided to allow members of the public to make a statement as time allows. The conference call operator will ask callers to identify themselves, the organization they are affiliated with (if any), and an email address prior to placing callers into the conference room. Callers can expect to incur regular charges for calls they initiate over wireless lines, according to their wireless plan. The Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number. Persons with hearing impairments may also follow the proceedings by first calling the Federal Relay Service at 1–800–977–8339 and providing the Service with the conference call number and conference ID number.

Members of the public are also entitled to submit written comments; the comments must be received in the regional office within 30 days following the meeting. Written comments may be mailed to the Midwestern Regional Office, U.S. Commission on Civil Rights, 230 S Dearborn Street, Suite 2120, Chicago, IL 60604. They may also be faxed to the Commission at (312) 353–8324 or emailed to David Barreras at *dbarreras@usccr.gov*. Persons who desire additional information may contact the Midwestern Regional Office at (312) 353–8311.

Records generated from this meeting may be inspected and reproduced at the Midwestern Regional Office, as they become available, both before and after the meeting. Records of the meeting will be available via *www.facadatabase.gov* under the Commission on Civil Rights, Alabama Advisory Committee link (*https://www.facadatabase.gov/FACA/FACAPublicCommittee?id=a10t0000001gzlLAAQ*). Persons interested in the work of this Committee are directed to the Commission's website, *http://www.usccr.gov,* or may contact the Midwestern Regional Office at the above email or street address.

Agenda

Welcome and Roll Call
Discussion of Barriers to Voting Report
Discussion of Next Topics for study
Next Steps
Public Comment
Adjournment

Exceptional Circumstance: Pursuant to 41 CFR 102–3.150, the notice for this meeting is given less than 15 calendar days prior to the meeting because of the exceptional circumstances of the federal government shutdown.

Dated: March 12, 2019.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2019–04835 Filed 3–14–19; 8:45 am]

BILLING CODE P

CIVIL RIGHTS COMMISSION

Sunshine Act Meeting Notice

AGENCY: United States Commission on Civil Rights.

ACTION: Notice of Commission public business meeting.

DATES: Friday, March 22, 2019, 1:30 p.m. ET.

ADDRESSES: Place: National Place Building, 1331 Pennsylvania Ave. NW, 11th Floor, Suite 1150, Washington, DC 20425. (Entrance on F Street NW)

FOR FURTHER INFORMATION CONTACT: Brian Walch: (202) 376–8371; TTY:

(202) 376–8116; *publicaffairs@usccr.gov.*

SUPPLEMENTARY INFORMATION: This business meeting is open to the public. There will also be a call-in line for individuals who desire to listen to the meeting and presentations: 800–682–9934, Conference ID 686–6909. The meeting will live-stream at: *https://www.youtube.com/user/USCCR/videos.* (Subject to change.) Persons with disabilities who need accommodation should contact Pamela Dunston at (202) 376–8105 or at *access@usccr.gov* at least seven (7) business days before the scheduled date of the meeting.

Meeting Agenda

I. Approval of Agenda

II. Business Meeting

A. Presentation by Rebecca Erbelding, Ph.D., United States Holocaust Memorial Museum: American Responses to the Rise of Nazism and the Refugee Crisis in the 1930s and 1940s

B. Presentation by Connecticut State Advisory Committee Chair David McGuire on the Committee's recent advisory memorandum, Solitary Confinement in Connecticut

C. Presentation by Tennessee State Advisory Committee Chair Diane Di Ianni on the Committee's recent report, The Civil Rights Implications of Tennessee's Civil Asset Forfeiture Laws and Practices

D. Presentation by Oregon State Advisory Committee Chair Thompson Faller on the Committee's recent report, Human Trafficking in Oregon

E. Discussion and vote on discovery materials for the Commission's project on sexual harassment in federal workplaces

F. Discussion and vote on statement deadlines for the Commission's project on stand your ground laws

G. Management and operations

- Staff Director's Report

III. Adjourn Meeting

Dated: March 13, 2019.

Brian Walch,

Director, Communications and Public Engagement.

[FR Doc. 2019–04963 Filed 3–13–19; 11:15 am]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–08–2019]

Foreign-Trade Zone (FTZ) 12—McAllen, Texas; Notification of Proposed Production Activity; Universal Metal Products, Inc.; (Formed and Converted Metal for Commercial and Industrial Use); Pharr, Texas

Universal Metal Products, Inc. (UMP) submitted a notification of proposed production activity to the FTZ Board for its facility in Pharr, Texas. The notification conforming to the requirements of the regulations of the FTZ Board (15 CFR 400.22) was received on February 19, 2019.

The UMP facility is located within Subzone 12B. The facility will be used for the stripping, bending, stamping, sanding, grinding, sawing, welding, riveting, tapping, washing, and heat treating of steel sheets and coils, and other metallic components, into parts for commercial and industrial use. Pursuant to 15 CFR 400.14(b), FTZ activity would be limited to the specific foreign-status materials/components and specific finished products described in the submitted notification (as described below) and subsequently authorized by the FTZ Board.

Production under FTZ procedures could exempt UMP from customs duty payments on the foreign-status materials/components used in export production. On its domestic sales, for the foreign-status materials/components noted below, UMP would be able to choose the duty rates during customs entry procedures that apply to: Airbag bracket; airbag propellent holder; various aluminized steel products (bracket; control mounting plate; element support plate; extension arm; heater assembly; heater duct; heater element housing; heater plate; housing receptacle; insulator plate; switch frame; tap plate); various aluminum products (bracket; mounting foot; pad backing plate; shim); annealed steel shim; battery terminal assembly; brass mounting clamp ferrule; clinch stud retainer with studs; clutch fork; various cold rolled steel products (anti-lock braking system case; bracket; cover grommet; end cap; hinge butt; lap anchor PT guide plate; latch; mounting clamp; mounting feet; plug; retainer; sleeve insert; torque limiter; tubular rivet); various copper products (battery terminal; bus bar; flange; lug; terminal assembly); front stabilizer bracket; various galvanized steel products (adjustable roller bracket sub-assembly; bracket; channel; control board housing; control box; control box cover; cover plate; flange; flange plate; heater plate; housing control mounting board; mechanical and electrical control cover; mounting collar; mounting strap; plate reinforcement; plate volume compensator; retainer; shield; terminal plate; top panel support; water valve cover); high strength low alloy steel buckle strap; hinge assembly; hinge butt assembly; hinge pin assembly; various hot rolled pickled/oiled steel products (bracket; clamp; flange; lever); various hot rolled steel products (base plate; bottom clamp; bracket; buckle strap; cam plate; clamp; clamp cover; directional fork; electrical box-metal; gearbox fork; inversion fork; lever; metal blank; mounting bracket; ramp support; stabilizer clip; stamp bed base angle; strap; wiring harness clamp); iron/steel brake fork; iron/steel weld nut bracket; metal shaft; mounting bracket assembly; plastic wheel adjustable roller bracket sub-assembly; retainer with studs; various stainless steel products (bracket; electrical component bracket; handle; latch; latch mechanism; mounting foot; sleeve coupling; stake lock); various steel products (adjustable roller bracket sub-assembly; hinge; hinge blade; nut bracket; nut terminal assembly; pin bracket; rivet adjustable roller bracket sub-assembly); various steel/aluminum products (two-way bracket; bracket; frame bracket; mounting clamp bracket; retractor bracket; shield bracket); steel/iron hinge assembly; various steel, auto standard products (base plate; bracket; cam plate; hinge butt; spiral cam; tap plate); stud biter bracket; various tin plated copper products (sensor power load shield; sleeve overlap; sleeve shield); and, wire mounting spring (duty rate ranges from duty-free to 5.7%). UMP would be able to avoid duty on foreign-status components which become scrap/waste. Customs duties also could possibly be deferred or reduced on foreign-status production equipment.

The materials/components sourced from abroad include: Various airbag components (bracket; propellent holder; retainer with studs); aluminized steel sheet and coil; aluminum sheet; brass sheet and coil; cold rolled steel sheet and coil; copper sheet and coil; electrical terminal; foam pad; galvanized steel sheet and coil; high strength low alloy steel; hot rolled pickled/oiled steel sheet and coil; hot rolled steel sheet and coil; various iron/steel components (axle fork; brake fork; clinch stud; hinge; hinge butt; hinge pin); metal shaft; mounting spring wire; plastic roller wheel; stainless steel bars and rods; stainless steel sheet and coil;

various steel components (nut; pin; rivet); various steel/aluminum components (two-way bracket; bracket; frame bracket; mounting clamp bracket; roller bracket; shield bracket); steel sheet and coil; stud biter; tin plated copper; and, weld nut (duty rate ranges from duty-free to 5.3%). The request indicates that the following components are subject to an antidumping/countervailing duty (AD/CVD) order/investigation if imported from certain countries: Aluminized steel sheet and coil; aluminum sheet; cold rolled steel sheet and coil; galvanized steel sheet and coil; high strength low alloy steel; hot rolled pickled/oiled steel sheet and coil; hot rolled steel sheet and coil; various iron/steel components (clinch stud; hinge; hinge butt; hinge pin); stainless steel bars and rods; stainless steel sheet and oil; steel rivet; various steel/aluminum components (two-way bracket; bracket; frame bracket; mounting clamp bracket; roller bracket; shield bracket); steel sheet and coil; and, stud biter. The FTZ Board's regulations (15 CFR 400.14(e)) require that merchandise subject to AD/CVD orders, or items which would be otherwise subject to suspension of liquidation under AD/CVD procedures if they entered U.S. customs territory, be admitted to the zone in privileged foreign status (19 CFR 146.41). The request also indicates that certain materials/components are subject to special duties under Section 232 of the Trade Expansion Act of 1962 (Section 232) or Section 301 of the Trade Act of 1974 (Section 301), depending on the country of origin. The applicable Section 232 and Section 301 decisions require subject merchandise to be admitted to FTZs in privileged foreign status.

Public comment is invited from interested parties. Submissions shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is April 24, 2019.

A copy of the notification will be available for public inspection at the Office of the Executive Secretary, Foreign-Trade Zones Board, Room 21013, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230–0002, and in the ''Reading Room'' section of the Board's website, which is accessible via *www.trade.gov/ftz.*

For further information, contact Juanita Chen at *juanita.chen@trade.gov* or 202–482–1378.

Dated: March 11, 2019.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2019–04878 Filed 3–14–19; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[S–218–2018]

Approval of Subzone Status adidas America, Inc. Wilkes-Barre, Pennsylvania

On December 4, 2018, the Executive Secretary of the Foreign-Trade Zones (FTZ) Board docketed an application submitted by the Eastern Distribution Center, Inc., grantee of FTZ 24, requesting subzone status subject to the existing activation limit of FTZ 24, on behalf of adidas America, Inc., in Wilkes-Barre, Pennsylvania.

The application was processed in accordance with the FTZ Act and Regulations, including notice in the **Federal Register** inviting public comment (83 FR 63613, December 11, 2018). The FTZ staff examiner reviewed the application and determined that it meets the criteria for approval. Pursuant to the authority delegated to the FTZ Board Executive Secretary (15 CFR Sec. 400.36(f)), the application to establish Subzone 24F was approved on March 12, 2019, subject to the FTZ Act and the Board's regulations, including Section 400.13, and further subject to FTZ 24's 2,000-acre activation limit.

Dated: March 12, 2019.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2019–04879 Filed 3–14–19; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Regulations and Procedures Technical Advisory Committee; Meeting Notice

The Regulations and Procedures Technical Advisory Committee (RPTAC) will meet April 2, 2019, 9:00 a.m., Room 3884, in the Herbert C. Hoover Building, 14th Street between Constitution and Pennsylvania Avenues NW, Washington, DC The Committee advises the Office of the Assistant Secretary for Export Administration on implementation of the Export Administration Regulations (EAR) and provides for continuing review to update the EAR as needed.

Agenda

Public Session

1. Opening remarks by the Chairman.
2. Opening remarks by Bureau of Industry and Security.
3. Presentation of papers or comments by the Public.
4. Export Enforcement update.
5. Regulations update.
6. Working group reports.
7. Automated Export System (AES) update.

The open session will be accessible via teleconference to 20 participants on a first come, first serve basis. To join the conference, submit inquiries to Ms. Yvette Springer at *Yvette.Springer@bis.doc.gov* no later than March 26, 2019.

A limited number of seats will be available for the public session. Reservations are not accepted. To the extent that time permits, members of the public may present oral statements to the Committee. The public may submit written statements at any time before or after the meeting. However, to facilitate the distribution of public presentation materials to the Committee members, the Committee suggests that presenters forward the public presentation materials prior to the meeting to Ms. Springer via email.

For more information, call Yvette Springer at (202) 482–2813.

Yvette Springer,

Committee Liaison Officer.

[FR Doc. 2019–04869 Filed 3–14–19; 8:45 am]

BILLING CODE 3510–JT–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–570–968]

Aluminum Extrusions From the People's Republic of China: Preliminary Results of Countervailing Duty Administrative Review and Intent To Rescind, in Part; 2017

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) preliminarily determines that countervailable subsidies have been provided to producers and exporters of aluminum extrusions from the People's Republic of China (China) for the period of review (POR) January 1, 2017 through December 31, 2017. Interested parties are invited to comment on these preliminary results.

DATES: Applicable March 15, 2019.

FOR FURTHER INFORMATION CONTACT:

Davina Friedmann, AD/CVD Operations, Office VI, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–0698.

SUPPLEMENTARY INFORMATION:

Background

Commerce published the notice of initiation of this administrative review on July 12, 2018, covering 243 companies.[1] On October 10, 2018, all requests for review were withdrawn for all but five companies: Anshan Zhongjda Industry Co., Ltd. (Anshan), Foshan Shanshui Fenglu Aluminum Co., Ltd. (Foshan), Jangho Curtain Wall Hong Kong Ltd. (Jangho H.K.), Sihui Shi Guo Yao Aluminum Co., Ltd. (Sihui Shi), and Sincere Profit Limited (Sincere Profit).[2]

Commerce exercised its discretion to toll all deadlines affected by the partial federal government closure from December 22, 2018 through the resumption of operations on January 29, 2019.[3] If the new deadline falls on a non-business day, in accordance with Commerce's practice, the deadline will become the next business day. Accordingly, the revised deadline for the preliminary results of this review is now March 12, 2019.

For a complete description of the events that followed the initiation of this review, *see* the Preliminary Decision Memorandum, which is dated concurrently with, and hereby adopted by this notice.[4] A list of topics discussed in the Preliminary Decision Memorandum is included as Appendix I to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically *via* Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *http://access.trade.gov;* this memorandum is available to all parties in the Central Records Unit, Room B8024 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at *http://enforcement.trade.gov/frn/.* The signed and electronic versions of the Preliminary Decision Memorandum are identical in content.

Scope of the Order

The merchandise covered by the order is aluminum extrusions which are shapes and forms, produced by an extrusion process, made from aluminum alloys having metallic elements corresponding to the alloy series designations published by The Aluminum Association commencing with the numbers 1, 3, and 6 (or proprietary equivalents or other certifying body equivalents).

Imports of the subject merchandise are provided for under the following categories of the Harmonized Tariff Schedule of the United States (HTSUS): 8541.90.00.00, 8708.10.30.50, 8708.99.68.90, 6603.90.8100, 7616.99.51, 8479.89.94, 8481.90.9060, 8481.90.9085, 9031.90.9195, 8424.90.9080, 9405.99.4020, 9031.90.90.95, 7616.10.90.90, 7609.00.00, 7610.10.00, 7610.90.00, 7615.10.30, 7615.10.71, 7615.10.91, 7615.19.10, 7615.19.30, 7615.19.50, 7615.19.70, 7615.19.90, 7615.20.00, 7616.99.10, 7616.99.50, 8479.89.98, 8479.90.94, 8513.90.20, 9403.10.00, 9403.20.00, 7604.21.00.00, 7604.29.10.00, 7604.29.30.10, 7604.29.30.50, 7604.29.50.30, 7604.29.50.60, 7608.20.00.30, 7608.20.00.90, 8302.10.30.00, 8302.10.60.30, 8302.10.60.60, 8302.10.60.90, 8302.20.00.00, 8302.30.30.10, 8302.30.30.60, 8302.41.30.00, 8302.41.60.15, 8302.41.60.45, 8302.41.60.50, 8302.41.60.80, 8302.42.30.10, 8302.42.30.15, 8302.42.30.65, 8302.49.60.35, 8302.49.60.45, 8302.49.60.55, 8302.49.60.85, 8302.50.00.00, 8302.60.90.00, 8305.10.00.50, 8306.30.00.00, 8414.59.60.90, 8415.90.80.45, 8418.99.80.05, 8418.99.80.50, 8418.99.80.60, 8419.90.10.00, 8422.90.06.40, 8473.30.20.00, 8473.30.51.00, 8479.90.85.00, 8486.90.00.00, 8487.90.00.80, 8503.00.95.20, 8508.70.00.00, 8515.90.20.00, 8516.90.50.00, 8516.90.80.50, 8517.70.00.00, 8529.90.73.00, 8529.90.97.60, 8536.90.80.85, 8538.10.00.00, 8543.90.88.80, 8708.29.50.60, 8708.80.65.90, 8803.30.00.60, 9013.90.50.00, 9013.90.90.00, 9401.90.50.81, 9403.90.10.40, 9403.90.10.50, 9403.90.10.85, 9403.90.25.40, 9403.90.25.80, 9403.90.40.05, 9403.90.40.10, 9403.90.40.60, 9403.90.50.05, 9403.90.50.10, 9403.90.50.80, 9403.90.60.05, 9403.90.60.10, 9403.90.60.80, 9403.90.70.05, 9403.90.70.10, 9403.90.70.80, 9403.90.80.10, 9403.90.80.15, 9403.90.80.20, 9403.90.80.41, 9403.90.80.51, 9403.90.80.61, 9506.11.40.80, 9506.51.40.00, 9506.51.60.00, 9506.59.40.40, 9506.70.20.90, 9506.91.00.10, 9506.91.00.20, 9506.91.00.30, 9506.99.05.10, 9506.99.05.20, 9506.99.05.30, 9506.99.15.00, 9506.99.20.00, 9506.99.25.80, 9506.99.28.00, 9506.99.55.00, 9506.99.60.80, 9507.30.20.00, 9507.30.40.00, 9507.30.60.00, 9507.90.60.00, and 9603.90.80.50.

The subject merchandise entered as parts of other aluminum products may be classifiable under the following additional Chapter 76 subheadings: 7610.10, 7610.90, 7615.19, 7615.20, and 7616.99, as well as under other HTSUS chapters. In addition, fin evaporator coils may be classifiable under HTSUS numbers: 8418.99.80.50 and 8418.99.80.60. While HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this order is dispositive.[5]

Methodology

Commerce is conducting this review in accordance with section 751(a)(1)(A) of the Tariff Act of 1930, as amended (the Act). For purposes of this review Commerce preliminarily finds that all programs previously countervailed in prior segments of this proceeding, remain countervailable—that is, they provide a financial contribution within the meaning of sections 771(5)(B)(i) and (D) of the Act, confer a benefit within the meaning of section 771(5)(B) of the Act, and are specific within the meaning of 771(5A) of the Act.

For a full description of the methodology underlying our

[1] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 83 FR 32270 (July 12, 2018) (*Initiation Notice*).

[2] *See* Letter from the Aluminum Extrusions Fair Trade Committee (the petitioner) and Endura Products, Inc. (Endura), ''Aluminum Extrusions from the People's Republic of China: Withdrawal of Request for Administrative Review,'' dated October 10, 2018 (Petitioner and Endura Withdrawal Request); *see also* Letter from Columbia Aluminum Products (Columbia), ''Aluminum Extrusions from China,'' dated October 10, 2018 (Columbia Withdrawal Request); see also Letter from Columbia, ''Aluminum Extrusions from China,'' dated February 12, 2019 (Columbia Revised Withdrawal Request).

[3] *See* Memorandum to the Record from Gary Taverman, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance, ''Deadlines Affected by the Partial Shutdown of the Federal Government,'' dated January 28, 2019. All deadlines in this segment of the proceeding have been extended by 40 days.

[4] *See* Memorandum, ''Decision Memorandum for the Preliminary Results of Countervailing Duty Administrative Review and Intent to Rescind, in Part; 2017,'' dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

[5] *See* Preliminary Decision Memorandum for a complete description of the scope of the order.

preliminary conclusions, including our reliance on adverse facts available pursuant to sections 776(a) and (b) of the Act, *see* the Preliminary Decision Memorandum. As explained in the Preliminary Decision Memorandum, Commerce relied on adverse facts available because the five companies that remain under review (*i.e.,* Anshan, Foshan, Jangho H.K., Sihui Shi, and Sincere Profit) did not act to the best of their ability in responding to Commerce's requests for information, and consequently, we have drawn an adverse inference, where appropriate, in selecting from among the facts otherwise available.[6] For further information, *see* ''Use of Facts Otherwise Available and Adverse Inferences'' in the Preliminary Decision Memorandum.

Intent To Rescind Review, In Part

For those companies named in the *Initiation Notice* for which all review requests have been timely withdrawn,[7] we intend to rescind this administrative review in accordance with 19 CFR 351.213(d)(1). These companies are listed at Appendix II to this notice. For these companies, Commerce intends to assess duties at rates equal to the rates of the cash deposits for estimated countervailing duties required at the time of entry, or withdrawn from warehouse, for consumption, during the POR, in accordance with 19 CFR 351.212(c)(2).

Preliminary Results

Commerce preliminarily determines that the following estimated countervailable subsidy rates exist:[8]

Company	Ad valorem rate (percent)
Anshan Zhongjda Industry Co. Ltd	201.09
Foshan Sanshui Fenglu Aluminum Co	201.09
Jangho Curtain Wall Hong Kong Ltd ..	201.09
Sihui Shi Guoyao Aluminum Co., Ltd	201.09
Sincere Profit Ltd	201.09

Assessment Rates

In accordance with 19 CFR 351.221(b)(4)(i), we preliminarily assigned subsidy rates in the amounts shown above for the producer/exporters shown above. Upon completion of the administrative review, consistent with section 751(a)(1) of the Act and 19 CFR 351.212(b)(2), Commerce shall determine, and U.S. Customs and Border Protection (CBP) shall assess, countervailing duties on all appropriate entries covered by this review. We intend to issue assessment instructions to CBP 15 days after publication of the final results of this review.

Cash Deposit Requirements

Pursuant to section 751(a)(2)(C) of the Act, Commerce also intends upon publication of the final results to instruct CBP to collect cash deposits of estimated countervailing duties in the amounts indicated above for each company listed on shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review. For all non-reviewed firms, we intend to instruct CBP to collect cash deposits of estimated countervailing duties at the most recent company-specific or all-others rate applicable to the company, as appropriate. These cash deposit requirements, when imposed, shall remain in effect until further notice.

Disclosure

Normally, Commerce discloses to interested parties the calculations performed in connection with the preliminary results of review within five days of its public announcement, or if there is no public announcement, within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b). However, we have assigned a net subsidy rate based on total adverse facts available to the five companies for which requests for review were not withdrawn (each failed to submit a response to Commerce's quantity and value (Q&V) questionnaire), in accordance with section 776 of the Act. For information detailing the derivation of the adverse facts available (AFA) rate applied, *see* AFA Calculation Memorandum.[9]

Public Comment

Interested parties may submit written case briefs no later than 30 days after the date of publication of the preliminary results. Rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than five days after the deadline date for case briefs.[10] Pursuant to 19 CFR 351.309(c)(2) and (d)(2), parties who submit case briefs or rebuttal briefs in this investigation are encouraged to submit with each argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.[11]

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, within 30 days after the date of publication of this notice. Requests should contain the party's name, address, and telephone number, the number of participants, whether any participant is a foreign national, and a list of the issues to be discussed. If a request for a hearing is made, Commerce intends to hold the hearing at the U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230, at a time and date to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date. Issues addressed at the hearing will be limited to those raised in the briefs.[12] All case and rebuttal briefs and hearing requests must be filed electronically and received successfully in their entirety through ACCESS by 5:00 p.m. Eastern Time on the due date.

Unless the deadline is extended pursuant to section 751(a)(3)(A) of the Act, we intend to issue the final results of this administrative review, including the results of our analysis of the issues raised by the parties in their comments, within 120 days after issuance of these preliminary results.

Notification to Interested Parties

These preliminary results are issued and published pursuant to sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.221(b)(4).

Dated: March 7, 2019.

Gary Taverman,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

Appendix I

List of Topics Discussed in the Preliminary Decision Memorandum

I. Summary
II. Background
III. Intent To Rescind the Review, In Part
IV. Scope of the Order
V. Use of Adverse Facts Available (AFA)
VI. *Ad Valorem* Rate for Non-Cooperative Companies Under Review
VII. Conclusion

[6] *See* sections 776(a) and (b) of the Act.

[7] *See* Petitioner and Endura Withdrawal Request; *see also,* Columbia Withdrawal Request and Columbia Revised Withdrawal Request.

[8] *See* Preliminary Decision Memorandum at ''Use of Adverse Facts Available'' and ''*Ad Valorem* Rate for Non-Cooperative Companies Under Review.''

[9] *See* Memorandum ''Administrative Review of Countervailing Duty Order on Aluminum Extrusions from the People's Republic of China: AFA Calculation Memorandum for the 2017 Preliminary Results of Review,'' dated March 12, 2019.

[10] *See* 19 CFR 351.309; *see also* 19 CFR 351.303 (for general filing requirements).

[11] *See* 19 CFR 351.309(c)(2) and (d)(2).

[12] *See* 19 CFR 351.310(c).

Appendix II

List of Companies for Which We Intend To Rescind this Administrative Review

1. Acro Import and Export Co.
2. Activa International Inc.
3. Activa Leisure Inc.
4. Allied Maker Limited
5. Alnan Aluminum Co., Ltd.
6. Alnan Aluminum Ltd.
7. Aluminicaste Fundicion de Mexico
8. AMC Ltd.
9. AMC Limited
10. Anji Chang Hong Chain Manufacturing
11. Aoda Aluminium (Hong Kong) Co., Limited
12. AsiaAlum Group
13. Atlas Integrated Manufacturing Ltd.
14. Belton (Asia) Development Limited
15. Belton (Asia) Development Ltd.
16. Birchwoods (Lin'an) Leisure Products Co., Ltd.
17. Bolnar Hong Kong Ltd.
18. Bracalente Metal Products (Suzhou) Co., Ltd.
19. Brilliance General Equipment Co., Ltd.
20. Changshu Changshen Aluminum Products Co., Ltd.
21. Changshu Changsheng Aluminum Products Co., Ltd.
22. Changzhou Changzhen Evaporator Co., Ltd.
23. Changzhou Changzheng Evaporator Co., Ltd.
24. Changzhou Tenglong Auto Accessories Manufacturing Co. Ltd.
25. Changzhou Tenglong Auto Parts Co., Ltd.
26. Changzhou Tenglong Auto Parts Co Ltd.
27. China Square
28. China Square Industrial Co.
29. China Square Industrial Ltd.
30. China Zhongwang Holdings, Ltd.
31. Chiping One Stop Industrial & Trade Co., Ltd.
32. Classic & Contemporary Inc.
33. Clear Sky Inc.
34. Cosco (J.M.) Aluminum Co., Ltd.
35. Cosco (JM) Aluminum Development Co. Ltd.
36. Dalian Huacheng Aquatic Products
37. Dalian Liwang Trade Co., Ltd.
38. Danfoss Micro Channel Heat Exchanger (Jia Xing) Co., Ltd.
39. Daya Hardware Co. Ltd.
40. Dongguan Dazhan Metal Co., Ltd.
41. Dongguang Aoda Aluminum Co., Ltd.
42. Dongguan Golden Tiger Hardware Industrial Co., Ltd.
43. Dragonluxe Limited
44. Dynabright International Group (HK) Ltd.
45. Dynamic Technologies China
46. ETLA Technology (Wuxi) Co. Ltd.
47. Ever Extend Ent. Ltd.
48. Fenghua Metal Product Factory
49. First Union Property Limited
50. FookShing Metal & Plastic Co. Ltd.
51. Foreign Trade Co. of Suzhou New & High-Tech Industrial Development Zone
52. Foshan City Nanhai Hongjia Aluminum Alloy Co., Ltd.
53. Foshan Golden Source Aluminum Products Co., Ltd.
54. Foshan Guangcheng Aluminium Co., Ltd.
55. Foshan Jinlan Aluminum Co. Ltd.
56. Foshan JinLan Aluminum Co., Ltd.
57. Foshan JMA Aluminum Company Limited
58. Foshan Nanhai Niu Yuan Hardware Product Co., Ltd.
59. Foshan Shunde Aoneng Electrical Appliances Co., Ltd
60. Foshan Yong Li Jian Aluminum Co., Ltd.
61. Fujian Sanchuan Aluminum Co., Ltd.
62. Fukang Aluminum & Plastic Import and Export Co., Ltd.
63. Fuzhou Sunmodo New Energy Equipment
64. Gaotang Xinhai Economy & Trade Co., Ltd.
65. Genimex Shanghai, Ltd.
66. Global Hi-Tek Precision Co. Ltd
67. Global PMX Dongguan Co., Ltd.
68. Global Point Technology (Far East) Limited
69. Gold Mountain International Development, Ltd.
70. Golden Dragon Precise Copper Tube Group, Inc.
71. Gran Cabrio Capital Pte. Ltd.
72. Gree Electric Appliances
73. GT88 Capital Pte. Ltd.
74. Guang Ya Aluminium Industries Co. Ltd.
75. Guang Ya Aluminum Industries Company Ltd.
76. Guang Ya Aluminium Industries (HK) Ltd.
77. Guangcheng Aluminum Co., Ltd.
78. Guangdong Hao Mei Aluminum Co., Ltd.
79. Guangdong Jianmei Aluminum Profile Company Limited
80. Guangdong JMA Aluminum Profile Factory (Group) Co., Ltd.
81. Guangdong Midea
82. Guangdong Midea Microwave and Electrical Appliances
83. Guangdong Nanhai Foodstuffs Imp. & Exp. Co., Ltd.
84. Guangdong Weiye Aluminum Factory Co., Ltd.
85. Guangdong Whirlpool Electrical Appliances Co., Ltd.
86. Guangdong Xingfa Aluminum Co., Ltd.
87. Guangdong Xin Wei Aluminum Products Co., Ltd.
88. Guangdong Yonglijian Aluminum Co., Ltd.
89. Guangdong Zhongya Aluminum Company Ltd.
90. Guangzhou Jangho Curtain Wall System Engineering Co., Ltd.
91. Guangzhou Mingcan Die-Casting Hardware Products Co., Ltd.
92. Hangzhou Xingyi Metal Products Co., Ltd.
93. Hanwood Enterprises Limited
94. Hanyung Alcoba Co., Ltd.
95. Hanyung Alcobis Co., Ltd.
96. Hanyung Metal (Suzhou) Co., Ltd.
97. Hao Mei Aluminum Co., Ltd.
98. Hao Mei Aluminum International Co., Ltd.
99. Hebei Xusen Wire Mesh Products Co., Ltd.
100. Henan New Kelong Electrical Appliances Co., Ltd.
101. Henan Zhongduo Aluminum Magnesium New Material Co., Ltd.
102. Hong Kong Gree Electric Appliances Sales Limited
103. Hong Kong Modern Non-Ferrous Metal
104. Honsense Development Company
105. Houztek Architectural Products Co., Ltd.
106. Hui Mei Gao Aluminum Foshan Co., Ltd.
107. Huixin Aluminum
108. IDEX Dinglee Technology (Tianjin) Co., Ltd.
109. IDEX Health
110. IDEX Technology Suzhou Co., Ltd.
111. Innovative Aluminum (Hong Kong) Limited
112. iSource Asia
113. Jackson Travel Products Co., Ltd.
114. Jiangmen Jianghai District Foreign Economic Enterprise Corp. Ltd.
115. Jiangmen Jianghai Foreign Ent. Gen.
116. Jiangmen Qunxing Hardware Diecasting Co., Ltd.
117. Jiangsu Changfa Refrigeration Co.
118. Jiangyin Suncitygaylin
119. Jiangyin Trust International Inc.
120. Jiangyin Xinhong Doors and Windows Co., Ltd.
121. Jiaxing Jackson Travel Products Co., Ltd.
122. Jiaxing Taixin Metal Products Co., Ltd.
123. Jiuyan Co., Ltd.
124. JMA (HK) Company Limited
125. Johnson Precision Engineering (Suzhou) Co., Ltd.
126. Justhere Co., Ltd.
127. Kam Kiu Aluminum Products Sdn Bhd
128. Kanal Precision Aluminum Product Co., Ltd.
129. Karlton Aluminum Company Ltd.
130. Kong Ah International Company Limited
131. Kromet International Inc.
132. Kromet Intl Inc.
133. Kromet International
134. Kunshan Giant Light Metal Technology Co., Ltd.
135. Liaoning Zhong Da Industrial Aluminum Co., Ltd.
136. Liaoning Zhongwang Group Co., Ltd.
137. Liaoyang Zhongwang Aluminum Profile Co. Ltd.
138. Longkou Donghai Trade Co., Ltd.
139. Metal Tech Co Ltd.
140. Metaltek Group Co., Ltd.
141. Metaltek Metal Industry Co., Ltd.
142. Midea Air Conditioning Equipment Co., Ltd.
143. Midea Electric Trading Co., Pte Ltd.
144. Midea International Trading Co., Ltd.
145. Midea International Training Co., Ltd.
146. Miland Luck Limited
147. Nanhai Textiles Import & Export Co., Ltd.
148. New Asia Aluminum & Stainless Steel Product Co., Ltd.
149. New Zhongya Aluminum Factory
150. Nidec Sankyo (Zhejang) Corporation
151. Nidec Sankyo Zhejiang Corporation
152. Nidec Sankyo Singapore Pte. Ltd.
153. Ningbo Coaster International Co., Ltd.
154. Ningbo Hi Tech Reliable Manufacturing Company
155. Ningbo Innopower Tengda Machinery
156. Ningbo Ivy Daily Commodity Co., Ltd.
157. Ningbo Yili Import and Export Co., Ltd.
158. North China Aluminum Co., Ltd.
159. North Fenghua Aluminum Ltd.
160. Northern States Metals
161. PanAsia Aluminum (China) Limited
162. Pengcheng Aluminum Enterprise Inc.
163. Permasteelisa Hong Kong Limited
164. Permasteelisa South China Factory
165. Pingguo Aluminum Company Limited

166. Pingguo Asia Aluminum Co., Ltd.
167. Popular Plastics Company Limited
168. Precision Metal Works Ltd.
169. Press Metal International Ltd.
170. Samuel, Son & Co., Ltd.
171. Sanchuan Aluminum Co., Ltd.
172. Sanhua (Hangzhou) Micro Channel Heat Exchanger Co., Ltd.
173. Shandong Fukang Aluminum & Plastic Co. Ltd.
174. Shandong Huajian Aluminum Group
175. Shangdong Huasheng Pesticide Machinery Co.
176. Shangdong Nanshan Aluminum Co., Ltd.
177. Shanghai Automobile Air-Conditioner Accessories Co Ltd.
178. Shanghai Automobile Air Conditioner Accessories Ltd.
179. Shanghai Canghai Aluminum Tube Packaging Co., Ltd.
180. Shanghai Dofiberone Composites Co. Ltd.
181. Shanghai Dongsheng Metal
182. Shanghai Shen Hang Imp & Exp Co., Ltd.
183. Shanghai Tongtai Precise Aluminum Alloy Manufacturing Co. Ltd.
184. Shanghai Top-Ranking Aluminum Products Co., Ltd.
185. Shanghai Top-Ranking New Materials Co., Ltd.
186. Shenyang Yuanda Aluminum Industry Engineering Co. Ltd.
187. Shenzhen Hudson Technology Development Co.
188. Shenzhen Jiuyuan Co., Ltd.
189. Skyline Exhibit Systems (Shanghai) Co. Ltd.
190. Southwest Aluminum (Group) Co., Ltd.
191. Summit Heat Sinks Metal Co., Ltd.
192. Summit Plastics Nanjing Co. Ltd.
193. Suzhou JRP Import & Export Co., Ltd.
194. Suzhou New Hongji Precision Part Co.
195. Tai-Ao Aluminum (Taishan) Co. Ltd.
196. Taishan City Kam Kiu Aluminium Extrusion Co., Ltd.
197. Taitoh Machinery Shanghai Co. Ltd.
198. Taizhou Lifeng Manufacturing Co., Ltd.
199. Tiazhou Lifeng Manufacturing Corporation
200. Taizhou United Imp. & Exp. Co., Ltd.
201. tenKsolar (Shanghai) Co., Ltd.
202. Tianjin Ganglv Nonferrous Metal Materials Co., Ltd.
203. Tianjin Jinmao Import & Export Corp., Ltd.
204. Tianjin Ruxin Electric Heat Transmission Technology Co., Ltd.
205. Tianjin Xiandai Plastic & Aluminum Products Co., Ltd.
206. Top-Wok Metal Co., Ltd.
207. Traffic Brick Network, LLC
208. Union Aluminum (SIP) Co.
209. Union Industry (Asia) Co., Ltd.
210. USA Worldwide Door Components (Pinghu) Co., Ltd.
211. Wenzhou Shengbo Decoration & Hardware
212. Wenzhou Yongtai Electric Co., Ltd.
213. Whirlpool (Guangdong)
214. Whirlpool Canada L.P.
215. Whirlpool Microwave Products Development Ltd.
216. Worldwide Door Components, Inc.
217. WTI Building Products, Ltd.
218. Wuxi Lutong Fiberglass Doors Co., Ltd.
219. Xin Wei Aluminum Co.
220. Xin Wei Aluminum Company Limited
221. Xinya Aluminum & Stainless Steel Product Co., Ltd.
222. Yuyao Fanshun Import & Export Co., Ltd.
223. Yuyao Haoshen Import & Export
224. Zahoqing China Square Industry Limited
225. Zhaoqing Asia Aluminum Factory Company Ltd.
226. Zhaoqing China Square Industrial Ltd.
227. Zhaoqing China Square Industry Limited
228. Zhaoqing New Zhongya Aluminum Co., Ltd.
229. Zhejiang Anji Xinxiang Aluminum Co., Ltd.
230. Zhejiang Lilies Industrial and Commercial Co.
231. Zhejiang Yili Automobile Air Condition Co., Ltd.
232. Zhejiang Yongkang Listar Aluminum Industry Co., Ltd.
233. Zhejiang Zhengte Group Co., Ltd.
234. Zhenjiang Xinlong Group Co., Ltd.
235. Zhongshan Daya Hardware Co., Ltd.
236. Zhongshan Gold Mountain Aluminum Factory Ltd.
237. Zhongya Shaped Aluminum (HK) Holding Limited
238. Zhuhai Runxingtai Electrical Equipment Co., Ltd.

[FR Doc. 2019–04881 Filed 3–14–19; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

U.S. Department of Commerce Trade Finance Advisory Council

AGENCY: International Trade Administration, U.S. Department of Commerce.

ACTION: Notice of an open meeting.

SUMMARY: The U.S. Department of Commerce Trade Finance Advisory Council (TFAC or the Council) will hold a meeting on Wednesday, March 27, 2019, at the U.S. Department of Commerce, in Washington, DC. The meeting is open to the public with registration instructions provided below.

DATES: Wednesday, March 27, 2019, from approximately 1:00 p.m. to 4:00 p.m. Eastern Daylight Time (EDT). The deadline for members of the public to register, including requests to make comments during the meeting and for auxiliary aids, or to submit written comments for dissemination prior to the meeting, is 5:00 p.m. EDT on Friday, March 22, 2019. Registration, comments, and any auxiliary aid requests should be submitted via email to *TFAC@trade.gov.*

ADDRESSES: The meeting will be held at the U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Ericka Ukrow, Designated Federal Officer, Office of Finance and Insurance Industries (OFII), International Trade Administration, U.S. Department of Commerce at (202) 482–0405; email: *Ericka.Ukrow@trade.gov.*

SUPPLEMENTARY INFORMATION:

Background

The TFAC was originally chartered on August 11, 2016, pursuant to discretionary authority and in accordance with the Federal Advisory Committee Act, as amended, 5 U.S.C. App., and re-chartered for a second two-year term on August 9, 2018. The TFAC serves as the principal advisory body to the Secretary of Commerce on policy matters relating to access to trade finance for U.S. exporters, including small- and medium-sized enterprises, and their foreign buyers. The TFAC is the sole mechanism by which the Department of Commerce (the Department) convenes private sector stakeholders to identify and develop consensus-based solutions to trade finance challenges. The Council is comprised of a diverse group of stakeholders from the trade finance industry and the U.S. exporting community, as well as experts from academia and public policy organizations.

On Wednesday, March 27, 2019, the TFAC will hold the first meeting of its 2018–2020 charter term. During the meeting, members will discuss with officials from the Department of Commerce and other agencies current challenges and opportunities to increase access to export financing resources for U.S. exporters. They will also establish priorities, the subcommittees' structure, and milestones for the successful development of recommendations.

Meeting minutes will be available within 90 days of the meeting upon request or on the TFAC's website at *www.trade.gov/tfac.*

Public Participation

The meeting will be open to the public and there will be limited time permitted for public comments. Members of the public seeking to attend the meeting, or for consideration of any written comments, are required to register in advance by the deadline identified under the **DATES** caption. This meeting is physically accessible to people with disabilities. Requests for participation at the meeting or for sign

language interpretation and other auxiliary aids should be submitted electronically to *TFAC@trade.gov.* Last minute requests will be accepted but may not be possible to accommodate.

Members of the public may submit written comments concerning TFAC affairs at any time before or after a meeting. Comments may be submitted to Ericka Ukrow, at the contact information indicated above. All comments and statements received, including attachments and other supporting materials, are part of the public record and subject to public disclosure.

Michael Fuchs,

Team Lead, Trade and Project Finance, Office of Finance and Insurance Industries.

[FR Doc. 2019–04830 Filed 3–14–19; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–943]

Oil Country Tubular Goods From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2017–2018

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) preliminarily determines that none of the companies subject to this review have established their entitlement to a separate rate during the May 1, 2017, through April 30, 2018 period of review (POR) and, thus, are part of the China-wide entity. We invite interested parties to comment on these preliminary results.

DATES: Applicable March 15, 2019.

FOR FURTHER INFORMATION CONTACT: Kent Boydston, AD/CVD Operations, Office VI, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–5649.

SUPPLEMENTARY INFORMATION:

Background

On May 1, 2018, Commerce published a notice of opportunity to request an administrative review of the antidumping duty order on oil country tubular goods (OCTG) from the People's Republic of China (China).[1] The POR is May 1, 2017, through April 30, 2018. On May 31, 2018, Commerce received a timely request from Maverick and TenarisBayCity (the petitioners) to conduct an administrative review of four companies, in accordance with 19 CFR 351.213(b).[2] There were no requests for an administrative review by any other party. Pursuant to the petitioners' request, on July 12, 2018, in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act), Commerce initiated an administrative review of the antidumping duty order on OCTG from China for the 2017–2018 POR.[3] As explained in the memorandum from the Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance, Commerce has exercised its discretion to toll all administrative deadlines due to the recent closure of the Federal Government. All deadlines in this segment of the proceeding have been extended by 40 days.[4] The revised deadline for the preliminary results of this review is now March 12, 2019. For a complete description of the events that followed the initiation of this administrative review, *see* the Preliminary Decision Memorandum which is hereby adopted by this notice.[5]

The Preliminary Decision Memorandum is a public document and is on file electronically *via* Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *http://access.trade.gov* and in the Central Records Unit, room B8024 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at *http://enforcement.trade.gov/frn/.* The signed Preliminary Decision Memorandum and the electronic version of the Preliminary Decision Memorandum are identical in content.

Scope of the Order

The scope of this order consists of certain OCTG, which are hollow steel products of circular cross-section, including oil well casing and tubing, of iron (other than cast iron) or steel (both carbon and alloy), whether seamless or welded, regardless of end finish *(e.g.,* whether or not plain end, threaded, or threaded and coupled) whether or not conforming to API or non-API specifications, whether finished (including limited service OCTG products) or unfinished (including green tubes and limited service OCTG products), whether or not thread protectors are attached.

The merchandise subject to this order is currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under item numbers: 7304.29.10.10, 7304.29.10.20, 7304.29.10.30, 7304.29.10.40, 7304.29.10.50, 7304.29.10.60, 7304.29.10.80, 7304.29.20.10, 7304.29.20.20, 7304.29.20.30, 7304.29.20.40, 7304.29.20.50, 7304.29.20.60, 7304.29.20.80, 7304.29.31.10, 7304.29.31.20, 7304.29.31.30, 7304.29.31.40, 7304.29.31.50, 7304.29.31.60, 7304.29.31.80, 7304.29.41.10, 7304.29.41.20, 7304.29.41.30, 7304.29.41.40, 7304.29.41.50, 7304.29.41.60, 7304.29.41.80, 7304.29.50.15, 7304.29.50.30, 7304.29.50.45, 7304.29.50.60, 7304.29.50.75, 7304.29.61.15, 7304.29.61.30, 7304.29.61.45, 7304.29.61.60, 7304.29.61.75, 7305.20.20.00, 7305.20.40.00, 7305.20.60.00, 7305.20.80.00, 7306.29.10.30, 7306.29.10.90, 7306.29.20.00, 7306.29.31.00, 7306.29.41.00, 7306.29.60.10, 7306.29.60.50, 7306.29.81.10, and 7306.29.81.50.

The OCTG coupling stock covered by the order may also enter under the following HTSUS item numbers: 7304.39.00.24, 7304.39.00.28, 7304.39.00.32, 7304.39.00.36, 7304.39.00.40, 7304.39.00.44, 7304.39.00.48, 7304.39.00.52, 7304.39.00.56, 7304.39.00.62, 7304.39.00.68, 7304.39.00.72, 7304.39.00.76, 7304.39.00.80, 7304.59.60.00, 7304.59.80.15, 7304.59.80.20, 7304.59.80.25, 7304.59.80.30, 7304.59.80.35, 7304.59.80.40, 7304.59.80.45, 7304.59.80.50, 7304.59.80.55, 7304.59.80.60, 7304.59.80.65, 7304.59.80.70, and 7304.59.80.80.

[1] *See* Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review, 83 FR 19047 (May 1, 2018).

[2] *See* Petitioner's submission entitled, ''Certain Oil Country Tubular Goods/rom The People's Republic of

China: Request for Administrative Review,'' dated May 31, 2018.

[3] *See* Initiation of Antidumping and Countervailing Duty Administrative Reviews, 83 FR 32270 (July 12, 2018).

[4] *See* Memorandum to the file from Gary Taverman, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance regarding ''Deadlines Affected by the Partial Shutdown of the Federal Government,'' dated January 28, 2019.

[5] *See* ''Decision Memorandum for the Preliminary Results of the Antidumping Duty Administrative Review: Oil Country Tubular Goods from the People's Republic of China,'' dated concurrently with this notice.

For a complete description of the scope of the order, *see* the Preliminary Decision Memorandum.

Methodology

Commerce is conducting this review in accordance with section 751(a)(1)(B) of the Act and 19 CFR 351.213. For a full description of the methodology underlying our preliminary results of review, *see* the Preliminary Decision Memorandum. A list of topics discussed in the Preliminary Decision Memorandum is provided in the Appendix to this notice.

Separate Rates

The four companies for which a review was requested failed to provide separate rate applications or certifications.[6] Therefore, Commerce preliminarily determines that these four companies are part of the China-wide entity. Because no party requested a review of the China-wide entity, the entity is not under review, and the entity's dumping margin of 99.14 percent is not subject to change.[7] For additional information regarding this determination, *see* the Preliminary Decision Memorandum.

Public Comment

Interested parties are invited to comment on the preliminary results and may submit case briefs and/or written comments, filed electronically using ACCESS, within 30 days of the date of publication of this notice, pursuant to 19 CFR 351.309(c)(1)(ii). Rebuttal briefs, limited to issues raised in the case briefs, will be due five days after the due date for case briefs, pursuant to 19 CFR 351.309(d). Parties who submit case or rebuttal briefs in this review are requested to submit with each argument a statement of the issue, a summary of the argument not to exceed five pages, and a table of statutes, regulations, and cases cited, in accordance with 19 CFR 351.309(c)(2).

Any interested party may request a hearing within 30 days of publication of this notice.[8] Hearing requests should contain the following information: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. Oral presentations at the hearing will be limited to issues raised in the case briefs. If a request for a hearing is made, parties will be notified of the time and date of the hearing to be held at the U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230.[9]

Unless extended, Commerce intends to issue the final results of this administrative review, which will include the results of its analysis of issues raised in any briefs received, within 120 days of publication of these preliminary results, pursuant to section 751(a)(3)(A) of the Act.

Assessment Rates

Upon issuing the final results of this review, Commerce will determine, and Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries covered by this review.[10] Commerce intends to issue assessment instructions to CBP 15 days after the publication date of the final results of this review. We intend to instruct CBP to liquidate entries of subject merchandise exported by the China-wide entity, including the four companies for which a review was requested, at the China-wide rate. Additionally, pursuant to Commerce's practice in non-market economy (NME) cases, any suspended entries of subject merchandise during the POR under case numbers for the companies for which a review was requested will be liquidated at the China-wide rate.[11]

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this review for shipments of subject merchandise from China entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by sections 751(a)(2)(C) of the Act: (1) For previously investigated or reviewed China and non-China exporters that received a separate rate in a prior segment of this proceeding, the cash deposit rate will continue to be the existing exporter-specific rate; (2) for all Chinese exporters of subject merchandise that have not been found to be entitled to a separate rate, the cash deposit rate will be the rate for the China-wide entity, which is 99.14 percent; and (3) for all non-China exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the China exporter that supplied that non-China exporter.

These deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Notification to Interested Parties

We are issuing and publishing these results in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.221(b)(4).

Dated: March 12, 2019.

Christian Marsh,

Deputy Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Preliminary Decision Memorandum

(1) Summary
(2) Background
(3) Scope of the Order
(4) Discussion of the Methodology
  a. Companies that Have Not Demonstrated Eligibility for Separate Rate Status
(5) Recommendation

[FR Doc. 2019–04877 Filed 3–14–19; 8:45 am]

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[6] The four companies are: (1) Baoshan Iron & Steel; (2) Hengyang Steel Tube Group International Trading Inc.; (3) Hubei Xinyegang Steel Co., Ltd.; and (4) Hubei Xin Yegang Special Tube.

[7] *See Certain Oil Country Tubular Goods From the People's Republic of China: Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order,* 75 FR 28551 (May 21, 2010).

[8] *See* 19 CFR 351.310(c).

[9] *See* 19 CFR 351.310(d).

[10] *See* 19 CFR 351.212(b).

[11] For a full discussion of this practice, *see* Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties, 76 FR 65694 (October 24, 2011).

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–891]

Carbon and Alloy Steel Wire Rod From the Republic of Korea: Initiation and Expedited Preliminary Results of Antidumping Duty Changed Circumstances Review

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) is initiating and issuing expedited preliminary results of a changed circumstances review (CCR) of the antidumping duty (AD) order on carbon and alloy steel wire rod (wire rod) from the Republic of Korea (Korea).

DATES: Applicable March 15, 2019.

FOR FURTHER INFORMATION CONTACT: Thomas Dunne, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone 202–482–2328.

SUPPLEMENTARY INFORMATION:

Background

On May 21, 2018, Commerce published the AD order on wire rod from the Republic of Korea.[1] On October 8, 2018, members of the domestic industry including Nucor Corporation, Optimus Steel LLC Keystone Consolidates Industries, Inc., and Charter Steel requested that Commerce initiate a CCR to revoke, in part, the AD order on wire rod from Korea as to value spring quality (VSQ) wire rod.[2]

Scope of the Order

The products covered by this order are certain hot-rolled products of carbon steel and alloy steel, in coils, of approximately round cross section, less than 19.00 mm in actual solid cross-sectional diameter. Specifically excluded are steel products possessing the above-noted physical characteristics and meeting the Harmonized Tariff Schedule of the United States (HTSUS) definitions for (a) stainless steel; (b) tool steel; (c) high-nickel steel; (d) ball bearing steel; or (e) concrete reinforcing bars and rods. Also excluded are free cutting steel (also known as free machining steel) products (*i.e.,* products that contain by weight one or more of the following elements: 0.1 percent or more of lead, 0.05 percent or more of bismuth, 0.08 percent or more of sulfur, more than 0.04 percent of phosphorous, more than 0.05 percent of selenium, or more than 0.01 percent of tellurium). All products meeting the physical description of subject merchandise that are not specifically excluded are included in this scope.

The products under this order are currently classifiable under subheadings 7213.91.3011, 7213.91.3015, 7213.91.3020, 7213.91.3093; 7213.91.4500, 7213.91.6000, 7213.99.0030, 7227.20.0030, 7227.20.0080, 7227.90.6010, 7227.90.6020, 7227.90.6030, and 7227.90.6035 of the HTSUS. Products entered under subheadings 7213.99.0090 and 7227.90.6090 of the HTSUS also may be included in this scope if they meet the physical description of subject merchandise above. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this order is dispositive.[3]

Initiation and Expedited Preliminary Results of Changed Circumstances Review

Pursuant to section 751(b)(1) of the Tariff Act of 1930, as amended (the Act) and 19 CFR 351.216(d), Commerce will conduct a CCR of an antidumping or countervailing duty order when it receives information which shows changed circumstances sufficient to warrant such a review. Section 782(h)(2) of the Act and 19 CFR 351.222(g)(1)(i) provide that Commerce may revoke an order (in whole or in part) if it determines that producers accounting for substantially all of the production of the domestic like product have no further interest in the order, in whole or in part. In addition, in the event Commerce determines that expedited action is warranted, 19 CFR 351.221(c)(3)(ii) permits Commerce to combine the notices of initiation and preliminary results.

For the reasons discussed below and in the accompanying proprietary memorandum, we find that such sufficient information exists to warrant a CCR.[4] Further, Commerce does not require any additional information to make a preliminary finding. For this reason, as permitted by 19 CFR 351.221(c)(3)(ii), Commerce finds that expedited action is warranted and is conducting this review on an expedited basis by publishing preliminary results in conjunction with a notice of initiation.

The six domestic producers filing the request assert that they account for ''substantially all'' [5] of the domestic production of carbon and alloy steel wire rod.[6] Because there is no record information that contradicts this claim, in accordance with section 751(b) of the Act and 19 CFR 351.222(g)(1)(i), we find that the six domestic producers comprise substantially all of the production of the domestic like product.

Because this CCR request was filed less than 24 months after the date of publication of notice of the final determination in the investigation, pursuant to 19 CFR 351.216(c), Commerce must determine whether good cause exists. We find that the six domestic producers' affirmative statement of no interest in the order with respect to valve spring quality wire rod imported from Korea constitutes good cause for the conduct of this review.[7] Based on the expression of no interest by the six domestic producers and in the absence of any objection by any other interested parties, we preliminarily determine that substantially all of the domestic producers of the like product have no interest in the continued application of the antidumping duty order on wire rod from Korea with respect to valve spring quality wire rod. Accordingly, we are notifying the public of our intent to revoke, in part, the antidumping duty order as it relates to imports of valve spring quality wire rod from Korea. We intend to change the scope of the order on wire rod from Korea by adding the exclusion language provided in the Attachment to this **Federal Register** notice.

Public Comment

Interested parties may submit case briefs not later than 14 days after the date of publication of this notice.[8] Rebuttal briefs, which must be limited to issues raised in case briefs, may be filed not later than seven days after the due date for case briefs.[9] All submissions must be filed electronically using Enforcement and Compliance's AD and CVD Centralized Electronic Service System (ACCESS). ACCESS is

[1] See *Carbon and Alloy Steel Wire Rod from Italy, the Republic of Korea, Spain, the Republic of Turkey, and the United Kingdom: Antidumping Duty Orders and Amended Final Affirmative Antidumping Duty Determinations for Spain and the Republic of Turkey,* 83 FR 23417 (May 21, 2018).

[2] *See* letter from domestic industry re: ''Carbon and Alloy Steel Wire Rod from the Republic of Korea Domestic Industry's Request for Initiation of Changed Circumstances Review and Partial Revocation Request,'' dated October 8, 2018 (CCR Request).

[3] For a description of the domestic industry's proposed exclusion language, *see* the Attachment to this **Federal Register** notice.

[4] *See* Memorandum, ''Analysis of Industry Support for Changed Circumstances Review: Carbon and Alloy Steel Wire Rod from the Republic of Korea,'' dated concurrently with, and hereby adopted by, this notice.

[5] In its administrative practice, Commerce has interpreted ''substantially all'' to mean at least 85 percent of the total production of the domestic like product covered by the order. *See, e.g., Supercalendered Paper from Canada: Final Results of Changed Circumstances Review and Revocation of Countervailing Duty Order,* 83 FR 32268 (July 12, 2018; *see* also *Oil Country Tubular Goods from Mexico; Preliminary Results of Changed Circumstances Antidumping Duty Administrative Review,* 64 FR 14213 (March 24, 1999).

[6] *See* CCR Request at 4–5.

[7] *See e.g., Certain Cold-Rolled Steel Flat Products from Japan: Initiation and Preliminary Results of Changed Circumstances Review, and Intent To Revoke Order in Part,* 82 FR 821 (January 4, 2017) (finding that ''Petitioners' affirmative statement of no interest in the order . . . constitutes good case for the conduct of this review.'')

[8] Commerce is exercising its discretion under 19 CFR 351.309(c)(1)(ii) to alter the time limit for filing of case briefs.

[9] Commerce is exercising its discretion under 19 CFR 351.309(d)(1) to alter the time limit for filing of rebuttal briefs.

available to registered users at *http://access.trade.gov* and in the Central Records Unit, room B8024 of the main Department of Commerce building. An electronically filed document must be received successfully in its entirety by ACCESS, by 5:00 p.m. Eastern Time on the due dates set forth in this notice.

Any interested party may request a hearing within 14 days of publication of this notice. Hearing requests should contain the following information: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. Oral presentations at the hearing will be limited to issues raised in the briefs. If a request for a hearing is made, parties will be notified of the time and date for the hearing to be held at the U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230 in a room to be determined.[10]

Unless extended, consistent with 19 CFR 351.216(e), we intend to issue the final results of this CCR no later than 270 days after the date on which this review was initiated or 45 days if all parties agree to the outcome of the review.

This notice is published in accordance with sections 751(b)(1) and 777(i)(1) of the Act and 19 CFR 351.216 and 351.221(c)(3).

Dated: March 12, 2019.

Christian Marsh,

Deputy Assistant Secretary for Enforcement and Compliance.

Attachment—Proposed Revision to the Scope of the Korea Order

Also excluded are valve spring quality (VSQ) steel products, which is defined as wire rod

(i) Measuring no more than 14 mm in cross-sectional diameter;

(ii) Containing by weight the following elements in the proportions shown:

(1) 0.51 percent to 0.68 percent, inclusive, of carbon,

(2) Not more than 0.020 percent of phosphorus,

(3) Not more than 0.020 percent of sulfur,

(4) Not more than 0.05 percent of copper,

(5) Not more than 70 ppm of nitrogen,

(6) 0.5 percent to 0.8 percent, inclusive, of manganese,

(7) Not more than 0.1 percent of nickel,

(8) 1.3 percent to 1.6 percent, inclusive, of silicon,

(9) Not more than 0.002 percent of titanium,

(10) Not more than 0.15 percent of vanadium, and

(11) Not more than 20ppm of oxygen of product; and

(iii) Having non-metallic inclusions not greater than 15 microns and meeting all of the following specific inclusions requirements using the Max-T method:

(1) No sulfide inclusions greater than 5 microns,

(2) No alumina inclusions greater than 10 microns,

(3) No silicate inclusions greater than 5 microns, and

(4) No oxide inclusions greater than 10 microns.

The size of an inclusion is its thickness perpendicular to the axis of rolling. Max-T method is used to measure the maximum thickness of all inclusions observed in a longitudinal cross-sectional sample with a minimum surface area of 60 mm2, taken at the bottom of each coil of every heat.

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[10] *See* 19 CFR 351.310(d).

DEPARTMENT OF COMMERCE

International Trade Administration

[A–427–818]

Low-Enriched Uranium From France: Final Results of Sunset Review and Revocation of Antidumping Duty Order

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: On November 1, 2018, the Department of Commerce (Commerce) initiated a sunset review of the antidumping duty order on low-enriched uranium (LEU) from France. Because no domestic interested party responded to the sunset review notice of initiation by the applicable deadline, Commerce is revoking the antidumping duty order on LEU from France.

DATES: Applicable March 15, 2019.

FOR FURTHER INFORMATION CONTACT: Jacqueline Arrowsmith or Charlotte Baskin-Gerwitz, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–5255 or (202) 482–4880, respectively.

SUPPLEMENTARY INFORMATION: On February 13, 2002, Commerce issued an antidumping duty order on imports of low-enriched uranium from France.[1] In the first two sunset reviews, Commerce and the International Trade Commission (ITC) determined that continuation of the order was warranted.[2] On November 1, 2018, Commerce initiated the current sunset review pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act) and 19 CFR 351.218.[3]

We did not receive a notice of intent to participate from the domestic interested parties in this sunset review. As a result, in accordance with 19 CFE 351.218(d)(1)(iii)(A), Commerce has determined that no domestic interested party intends to participate in the sunset review. On November 28, 2018, Commerce notified the ITC in writing that we intend to revoke the antidumping duty order on low-enriched uranium from France.[4] Commerce exercised its discretion to toll all deadlines affected by the partial federal government closure from December 22, 2018, through the resumption of operations on January 29, 2019.[5] If the new deadline falls on a non-business day, in accordance with Commerce's practice, the deadline will become the next business day. The revised deadline for the Revocation Order is now March 11, 2019.

Scope of the Order

The product covered by the order is all low-enriched uranium. Low-enriched uranium is enriched uranium hexafluoride (UF_6) with a U^{235} product assay of less than 20 percent that has not been converted into another chemical form, such as UO_2, or fabricated into nuclear fuel assemblies, regardless of the means by which the LEU is produced (including low-enriched uranium produced through the down-blending of highly enriched uranium).

Certain merchandise is outside the scope of this order. Specifically, this order does not cover enriched uranium hexafluoride with a U^{235} assay of 20

[1] *See Low Enriched Uranium from France; Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order,* 67 FR 6880 (February 13, 2002).

[2] *See Low Enriched Uranium from France; Continuation of Antidumping Order,* 73 FR 449 (January 3, 2008); *Low Enriched Uranium from France; Continuation of Antidumping Order,* 78 FR 77650 (December 24, 2013).

[3] *See Low Enriched Uranium from France; Initiation of Five-Year (Sunset) Reviews,* 83 FR 54915 (November 1, 2018) (*Initiation Notice*).

[4] *See* Department Letter re: Sunset Reviews Initiated on May 1, 2018, dated May 18, 2018.

[5] *See* memorandum to the Record from Gary Taverman, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance, ''Deadlines Affected by the Partial Shutdown of the Federal Government,'' dated January 28, 2019. All deadlines in this segment of the proceeding have been extended by 40 days.

percent or greater, also known as highly-enriched uranium. In addition, fabricated low-enriched uranium is not covered by the scope of this order. For the purposes of this order, fabricated uranium is defined as enriched uranium dioxide (UO_2), whether or not contained in nuclear fuel rods or assemblies. Natural uranium concentrates (U_3O_8) with a U^{235} concentration of no greater than 0.711 percent and natural uranium concentrates converted into uranium hexafluoride with a U^{235} concentration of no greater than 0.711 percent are not covered by the scope of this order.

Also excluded from this order is low-enriched uranium owned by a foreign utility end-user and imported into the United States by or for such end-user solely for purposes of conversion by a U.S. fabricator into uranium dioxide (UO_2) and/or fabrication into fuel assemblies so long as the uranium dioxide and/or fuel assemblies deemed to incorporate such imported low-enriched uranium (i) remain in the possession and control of the U.S. fabricator, the foreign end-user, or their designated transporter(s) while in U.S. customs territory, and (ii) are re-exported within eighteen (18) months of entry of the low-enriched uranium for consumption by the end-user in a nuclear reactor outside the United States. Such entries must be accompanied by the certifications of the importer and end user.

The merchandise subject to this order is classified in the Harmonized Tariff Schedule of the United States (HTSUS) at subheading 2844.20.0020. Subject merchandise may also enter under 2844.20.0030, 2844.20.0050, and 2844.40.00. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise is dispositive.

Revocation

Pursuant to section 751(c)(3)(A) of the Act and 19 CFR 351.218(d)(1)(iii)(B)(3), if no domestic interested parties respond to a notice of initiation, Commerce shall, within 90 days after the initiation of the review, revoke the order. Because no domestic interested party filed a notice of intent to participate in this sunset review, we are revoking the antidumping duty order on LEU from France.

Effective Date of Revocation

Pursuant to sections 751(c)(3)(A) and 751(c)(6)(A)(iii) of the Act, and 19 CFR 351.222(i)(2)(i), Commerce will instruct U.S. Customs and Border Protection to terminate the suspension of liquidation of the merchandise subject to this order entered, or withdrawn from warehouse, on or after December 24, 2018, the fifth anniversary of the date of publication of the last continuation notice. Entries of subject merchandise prior to the effective date of revocation will continue to be subject to suspension of liquidation and antidumping duty deposit requirements. Commerce will complete any pending reviews of these orders and will conduct administrative reviews of subject merchandise entered prior to the effective date of revocation in response to appropriately filed requests for review.

These five-year (sunset) reviews and this notice are issued and published in accordance with sections 751(c) and 777(i)(1) of the Act.

Dated: March 12, 2019.

P. Lee Smith,

Deputy Assistant Secretary for Policy and Negotiations.

[FR Doc. 2019–04882 Filed 3–14–19; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–970]

Multilayered Wood Flooring From the People's Republic of China: Initiation of Antidumping Duty New Shipper Review; 2017–2018

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) has determined that a request for a new shipper review (NSR) of the antidumping duty order on multilayered wood flooring from the People's Republic of China (China) meets the statutory and regulatory requirements for initiation. The period of review (POR) for this new shipper review is December 1, 2017, through November 30, 2018.

DATES: Applicable March 15, 2019.

FOR FURTHER INFORMATION CONTACT: William Horn or Alexis Cherry, AD/CVD Operations, Office VIII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–4868 or (202) 482–0607, respectively.

SUPPLEMENTARY INFORMATION:

Background

Commerce published the antidumping duty order on multilayered wood flooring from China on December 8, 2011.[1] On December 19, 2018, Commerce received a timely NSR request from Muchsee Wood (Chuzhou) Co., Ltd. (Muchsee Wood) in accordance with section 751(a)(2)(B)(i) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.214(c).[2] Commerce exercised its discretion to toll all deadlines affected by the partial federal government closure from December 22, 2018, through the resumption of operations on January 29, 2019. If the new deadline falls on a non-business day, in accordance with Commerce's practice, the deadline will become the next business day.[3] The revised deadline for the NSR initiation decision is now March 12, 2019.

In its submission, Muchsee Wood certified that it is both the producer and exporter of the subject merchandise upon which the NSR request is based.[4] Pursuant to section 751(a)(2)(B)(i)(I) of the Act and 19 CFR 351.214(b)(2)(i), Muchsee Wood certified that it did not export multilayered wood flooring to the United States during the period of investigation (POI).[5] In addition, pursuant to section 751(a)(2)(B)(i)(II) of the Act and 19 CFR 351.214(b)(2)(iii)(A), Muchsee Wood certified that, since the initiation of the investigation, it has never been affiliated with any producer or exporter that exported multilayered wood flooring to the United States during the POI, including those not individually examined during the investigation.[6] As required by 19 CFR 351.214(b)(2)(iii)(B), Muchsee Wood also certified that its export activities were not controlled by the Government of China.[7] Muchsee Wood additionally certified that it has had no subsequent shipments of subject merchandise.[8]

In addition to the certifications described above, pursuant to 19 CFR

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[1] *See Multilayered Wood Flooring from the People's Republic of China: Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order,* 76 FR 76690 (December 8, 2011), as amended in *Multilayered Wood Flooring from the People's Republic of China: Amended Antidumping and Countervailing Duty Orders,* 77 FR 5484 (February 3, 2012) (*Order*).

[2] *See* Muchsee Wood's Letter, ''Multilayered Wood Flooring from the People's Republic of China: Request for New Shipper Review,'' dated December 19, 2018 (Muchsee Initiation Request).

[3] *See* Memorandum to the Record from Gary Taverman, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance, ''Deadlines Affected by the Partial Shutdown of the Federal Government,'' dated January 28, 2019. All deadlines in this segment of the proceeding have been extended by 40 days.

[4] *See* Muchsee Initiation Request at 2.

[5] *Id* at Exhibit 2.

[6] *Id.*

[7] *Id.*

[8] *Id.* at 3.

351.214(b)(2)(iv), Muchsee Wood submitted documentation establishing the following: (1) The date on which the company first shipped multilayered wood flooring for export to the United States and the date on which the multilayered wood flooring was first entered, or withdrawn from warehouse, for consumption; (2) the volume of its first shipment; and (3) the date of its first sale to an unaffiliated customer in the United States.[9]

Commerce conducted a query of the U.S. Customs and Border Protection (CBP) database and confirmed that Muchsee Wood's shipment of subject merchandise had entered the United States for consumption and that liquidation of such entries had been properly suspended for antidumping duties. The information which Commerce examined was consistent with that provided by Muchsee Wood in its request. In particular, the CBP data confirmed the price and quantity reported by Muchsee Wood for the sale that forms the basis of this NSR request. Commerce also confirmed by examining CBP data that Muchsee Wood's entries were made during the POR specified by Commerce's regulations.[10]

On February 26, 2019, the petitioner, the American Manufacturers of Multilayered Wood Flooring (AMMWF), filed new factual information in response to Muchsee Wood's request for an NSR.[11] Commerce accepted the petitioner's submission and established a timeline for interested parties to submit new factual information to rebut, clarify, or correct the information in the petitioner's submission.[12] On March 8, 2019, Muchsee Wood timely submitted rebuttal information regarding its sale to an unaffiliated U.S. customer during the proposed POR. Because this new factual information and rebuttal information were filed so close in time to the March 12, 2019, deadline to initiate the NSR, there was insufficient time to perform the necessary analysis; therefore, Commerce will evaluate this information during the course of the review.

Period of Review

Pursuant to 19 CFR 351.214(c), an exporter or producer may request an NSR within one year of the date on which its subject merchandise was first entered. Muchsee Wood requested this NSR within one year of the date on which its multilayered wood flooring was first entered, and made its request in the month of December, which is the anniversary month of the *Order.* In accordance with 19 CFR 351.214(g)(1)(i)(A), the POR is December 1, 2017, through November 30, 2018.

Initiation of New Shipper Review

Pursuant to section 751(a)(2)(B) of the Act, 19 CFR 351.214(b), and the information on the record, Commerce finds that Muchsee Wood's request meets the threshold requirements for initiation of a NSR and is therefore initiating an NSR of Muchsee Wood.[13] However, if the information supplied by Muchsee Wood is later found to be incorrect or insufficient during the course of this proceeding, Commerce may rescind the review or apply adverse facts available pursuant to section 776 of the Act, depending upon the facts on record. Commerce intends to issue the preliminary results within 180 days from the date of initiation, and the final results within 90 days from the issuance of the preliminary results.[14]

It is our usual practice, in cases involving non-market economies, to require that a company seeking to establish eligibility for an antidumping duty rate separate from the country-wide rate (*i.e.,* a separate rate) provide evidence of *de jure* and *de facto* absence of government control over the company's export activities.[15] Accordingly, Commerce will issue questionnaires to Muchsee Wood that will include a section requesting information with regard to the company's export activities for the purpose of establishing its eligibility for a separate rate. The review will proceed if the response provides sufficient indication that Muchsee Wood is not subject to either *de jure* or *de facto* government control with respect to its exports of subject merchandise.

We will conduct this new shipper review in accordance with section 751(a)(2)(B) of the Act, as amended by the Trade Facilitation and Trade Enforcement Act of 2015.[16]

Interested parties requiring access to proprietary information in this proceeding should submit applications for disclosure under administrative protective order in accordance with 19 CFR 351.305 and 19 CFR 351.306.

This initiation and notice are in accordance with section 751(a)(2)(B) of the Act and 19 CFR 351.214 and 19 CFR 351.221(c)(1)(i).

Dated: March 12, 2019.

Christian Marsh,

Deputy Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2019–04880 Filed 3–14–19; 8:45 am]

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[9] *Id.* at Exhibit 1.

[10] *See* Memorandum to the File, ''U.S. Customs and Border Protection Data'' for Muchsee Wood,'' dated concurrently with this notice; *see also* Memorandum to the File, ''Initiation of Antidumping New Shipper Review of Multilayered Wood Flooring from the People's Republic of China: Muchsee Wood (Chuzhou) Co., Ltd. Initiation Checklist'' (''Muchsee Wood Initiation Checklist''), dated concurrently with this notice.

[11] *See* Letter from Petitioner, ''Multilayered Wood Flooring From the People's Republic of China: Comments on Muchsee Wood's Request for New Shipper Review,'' dated February 26, 2019.

[12] *See* Memorandum to the File, ''Timeline to Rebut Factual Information for Muchsee Wood (Chuzhou) Co., Ltd.,'' dated March 1, 2019.

[13] *See* Muchsee Wood Initiation Checklist.

[14] *See* section 751(a)(2)(B)(iii) of the Act and 19 CFR 351.214(i).

[15] *See* Import Administration Policy Bulletin, Number: 05.1. (*http://ia.ita.doc.gov/policy/bull05-1.pdf*).

[16] The Trade Facilitation and Trade Enforcement Act of 2015 removed from section 751(a)(2)(B) of the Act the provision directing Commerce to instruct Customs and Border Protection to allow an importer the option of posting a bond or security in lieu of a cash deposit during the pendency of a new shipper review.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XG873

Taking and Importing Marine Mammals; Taking Marine Mammals Incidental to U.S. Navy Training and Testing Activities in the Mariana Islands Training and Testing Study Area

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

ACTION: Notice; receipt of application for a Letter of Authorization; request for comments and information.

SUMMARY: NMFS has received a request from the U.S. Navy (Navy) for authorization to take marine mammals incidental to training and testing activities conducted in the Mariana Islands Training and Testing (MITT) Study Area for a period of seven years, from August, 2020 through August, 2027. Pursuant to regulations implementing the Marine Mammal Protection Act (MMPA), NMFS is announcing receipt of the Navy's request for the development and implementation of regulations governing the incidental taking of marine mammals. NMFS invites the public to provide information, suggestions, and comments on the Navy's application and request.

DATES: Comments and information must be received no later than April 15, 2019.

ADDRESSES: Comments on the application should be addressed to Jolie Harrison, Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service. Physical comments should be sent to 1315 East-West Highway, Silver Spring, MD 20910 and electronic comments should be sent to *ITP.Egger@noaa.gov.*

Instructions: NMFS is not responsible for comments sent by any other method, to any other address or individual, or received after the end of the comment period. Comments received electronically, including all attachments, must not exceed a 25-megabyte file size. Attachments to electronic comments will be accepted in Microsoft Word or Excel or Adobe PDF file formats only. All comments received are a part of the public record and will generally be posted to the internet at *www.nmfs.noaa.gov/pr/permits/incidental/military.htm* without change. All personal identifying information (*e.g.,* name, address) voluntarily submitted by the commenter may be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected information.

FOR FURTHER INFORMATION CONTACT: Stephanie Egger, Office of Protected Resources, NMFS, (301) 427–8401. An electronic copy of the Navy's application may be obtained online at: *www.nmfs.noaa.gov/pr/permits/incidental/military.htm.* In case of problems accessing these documents, please call the contact listed above.

SUPPLEMENTARY INFORMATION:

Background

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce (Secretary) to allow, upon request, the incidental, but not intentional taking of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographic region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, notice of a proposed authorization is provided to the public for review.

An authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant), and if the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such takings are set forth.

NMFS has defined ''negligible impact'' in 50 CFR 216.103 as '' . . . an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.''

The MMPA states that the term ''take'' means to harass, hunt, capture, kill or attempt to harass, hunt, capture, or kill any marine mammal.

Except with respect to certain activities not pertinent here, the MMPA defines ''harassment'' as: Any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild (Level A harassment); or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering (Level B harassment).

The National Defense Authorization Act for Fiscal Year 2004 (Pub. L. 108–136) removed the ''small numbers'' and ''specified geographical region'' limitations indicated above and amended the definition of ''harassment'' as it applies to a ''military readiness activity'' to read as follows (Section 3(18)(B) of the MMPA): (i) Any act that injures or has the significant potential to injure a marine mammal or marine mammal stock in the wild (Level A Harassment); or (ii) Any act that disturbs or is likely to disturb a marine mammal or marine mammal stock in the wild by causing disruption of natural behavioral patterns, including, but not limited to, migration, surfacing, nursing, breeding, feeding, or sheltering, to a point where such behavioral patterns are abandoned or significantly altered (Level B Harassment). On August 13, 2018, the 2019 NDAA (Pub. L. 115–232) amended the MMPA to allow incidental take regulations for military readiness activities to be issued for up to seven years.

Summary of Request

On February 11, 2019, NMFS received an adequate and complete application from the Navy requesting authorization for the take of marine mammals, by Level A and B harassment, incidental to training, testing, and routine military operations (all categorized as military readiness activities) from the use of sonar and other transducers and in-water detonations. The requested regulations will be valid for seven years, from 2020 through 2027.

This will be the third time NMFS has promulgated incidental take regulations pursuant to the MMPA relating to similar military readiness activities in the MITT Study Area, following those effective from August 3, 2010, through August 3, 2015, (75 FR 45527; August 3, 2010) and from August 3, 2015 through August 3, 2020 (80 FR 46112; August 3, 2015).

Description of the Specified Activity

The MITT Study Area is comprised of three components: (1) The Mariana Islands Range Complex (MIRC), (2) additional areas on the high seas, and (3) a transit corridor between the MIRC and the Hawaii Range Complex (HRC) (see Figure 1.1–1 of the application). The transit corridor is outside the geographic boundaries of the MIRC and represents a great-circle route across the high seas for Navy ships transiting between the MIRC and the HRC. The proposed activities also includes various operations in Apra Harbor such as sonar maintenance and testing alongside Navy piers located in Inner Apra Harbor.

The following types of training and testing, which are classified as military readiness activities pursuant to section 315(f) of Public Law 101–314 (16 U.S.C. 703), are included in the specified activity described in the Navy's application: Amphibious warfare (in-water detonations), anti-submarine warfare (sonar and other transducers, in-water detonations), surface warfare (in-water detonations), and other (sonar and other transducers).

The Navy's application includes proposed mitigation measures for marine mammals that would be implemented during training and testing activities in the MITT Study Area. Proposed procedural mitigation measures generally include: (1) The use of Lookouts to observe for biological resources and communicate the need for mitigation implementation; (2) powerdowns, shutdowns, and delay of starts to avoid exposure of marine mammals to high levels of sound or explosive blasts more likely to result in injury or more serious behavioral disruption; and (3) limiting the use of active sonar or explosives in certain biologically important areas to reduce the probability or severity of impacts when they are more likely to contribute to fitness impacts.

The Navy also proposes to undertake monitoring and reporting efforts to track compliance with incidental take authorizations and to help investigate the effectiveness of implemented mitigation measures in the MITT Study Area. This can include Adaptive

Management, the Integrated Comprehensive Monitoring Program, the Strategic Planning Process, and Annual Monitoring and Exercise and Testing Reports. As an example, under the Integrated Comprehensive Monitoring Program, the monitoring relating to the effects of Navy training and testing activities on protected marine species are designed to increase the understanding of the likely occurrence of marine mammals in the vicinity of the action (*i.e.,* presence, abundance, distribution, and density of species) and to increase the understanding of the nature, scope, or context of the likely exposure of marine mammals to any of the potential stressors associated with the action.

Information Solicited

Interested persons may submit information, suggestions, and comments concerning the Navy's request (see **ADDRESSES**). NMFS will consider all information, suggestions, and comments related to the request during the development of proposed regulations governing the incidental taking of marine mammals by the Navy, if appropriate.

Dated: March 11, 2019.

Catherine G. Marzin,

Deputy Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2019–04818 Filed 3–14–19; 8:45 am]

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DEPARTMENT OF COMMERCE

Patent and Trademark Office

[Docket No. PTO–P–2019–0005]

Notice Regarding a New Pilot Program Concerning Motion To Amend Practice and Procedures in Trial Proceedings Under the America Invents Act Before the Patent Trial and Appeal Board

AGENCY: United States Patent and Trademark Office, Department of Commerce.

ACTION: Notice of pilot program.

SUMMARY: The United States Patent and Trademark Office (''USPTO'' or ''Office'') provides notice of a pilot program for motion to amend (''MTA'') practice and procedures in trial proceedings under the America Invents Act (''AIA'') before the Patent Trial and Appeal Board (''PTAB'' or ''Board''). In particular, a patent owner who files an MTA will have the ability to choose how that motion will proceed before the Board, including whether to request preliminary guidance from the Board on the MTA and whether to file a revised MTA. The Office previously published a notice requesting comments on proposed modifications to the current MTA practice and procedures. The Office has considered those comments and greatly appreciates the feedback. In view of the comments received, the Office has modified its prior proposal in certain respects as reflected in this notice, and will implement the MTA pilot program presented in this notice.

DATES: This pilot will begin on March 15, 2019.

Applicability Date: This pilot program applies to all AIA trial proceedings instituted on or after the effective date.

Duration: The USPTO anticipates it will reassess the MTA pilot program approximately one year from its effective date based on information obtained during the pilot program. The USPTO may terminate the pilot program at any time or continue the program (with or without modifications) depending on the feedback received during the course of the pilot program, and the effectiveness of the program.

FOR FURTHER INFORMATION CONTACT: Melissa Haapala, Acting Vice Chief Administrative Patent Judge, or Jessica Kaiser, Lead Administrative Patent Judge, by telephone at (571) 272–9797.

SUPPLEMENTARY INFORMATION:

I. Preamble

On October 29, 2018, the Office published a request for comments (''RFC'') on a proposed procedure for motions to amend filed in *inter partes* reviews, post-grant reviews, and covered business method patent reviews (collectively AIA trials) before the PTAB. The Office received 49 comments in response to this RFC as of December 21, 2018 (the closing date for comments). The majority of comments supported the Office taking action in relation to MTA practice and procedures in AIA trials. Several comments suggested that the Office should reconsider the timelines of due dates presented in the initial RFC. Other comments suggested further revisions, discussed in greater detail below.

This notice provides information relating to the pilot program for a new MTA practice in response to the stakeholder comments received. As discussed below, the pilot program provides a patent owner with two options not previously available. The first option is that a patent owner may choose to receive preliminary guidance from the Board on its MTA. The second option is that a patent owner may choose to file a revised MTA after receiving petitioner's opposition to the original MTA and/or after receiving the Board's preliminary guidance (if requested).

In addition to these new options, the patent owner also will be able to pursue an MTA in effectively the same way as current practice. Specifically, if a patent owner does not elect either the option to receive preliminary guidance or the option to file a revised MTA, AIA trial practice, including MTA practice, is essentially unchanged from current practice, especially regarding the timing of due dates for already existing papers in an AIA trial. One exception is that times between due dates for certain later-filed papers will be extended slightly, as compared to the existing process. For example, rather than 1 month, a patent owner will have 6 weeks to file a reply after receiving an opposition to its original MTA, and a petitioner will have 6 weeks to file a sur-reply in response to that reply. *See infra* Appendix 1A (PO Reply Timeline). In addition, to align relevant due dates as done in current practice, a patent owner will have 6 weeks to file a sur-reply after receiving a reply in relation to the petition, regardless of whether patent owner files an MTA. *Id.*

The first notable new feature of the program is that a patent owner may request, in its MTA, that the Board issue preliminary guidance on the MTA after a petitioner files an opposition to an MTA (or after the due date for the opposition, if none is filed). The preliminary guidance typically will be in the form of a short paper (although it may be oral guidance provided in a conference call, at the Board's discretion) that provides preliminary, non-binding guidance from the Board to the parties about the MTA. The Board's preliminary guidance will focus on the limitations added in the patent owner's MTA, and will not address the patentability of the originally challenged claims.

With that in mind, the preliminary guidance will provide an initial discussion about whether there is a reasonable likelihood that the MTA meets statutory and regulatory requirements for an MTA. The preliminary guidance also will provide an initial discussion about whether petitioner (or the record then before the Office, including any opposition to the MTA and accompanying evidence) establishes a reasonable likelihood that the substitute claims are unpatentable. Many stakeholders who provided comments to the October 2018 Request for Comment on MTA Practice and Procedure on this topic indicated that they were in favor of the Board providing some kind of preliminary guidance of this nature. *See* Request for

Comments on MTA Practice and Procedures in Trial Proceedings Under the America Invents Act Before the Patent Trial and Appeal Board, 83 FR 54319 (Oct. 29, 2018) (hereinafter RFC or MTA RFC); *see also* Comments on Motion to Amend Practice and Procedures in AIA Trials, U.S. Patent & Trademark Office, *https://go.usa.gov/xEXS2* (comments received by December 21, 2018, in response to the RFC) (last visited Mar. 11, 2019) (hereinafter PTAB RFC Comments website).

The pilot program also allows a patent owner, after receiving petitioner's opposition to the original MTA and/or after receiving the Board's preliminary guidance (if requested), to choose to submit a revised MTA. Many stakeholders who provided comments to the RFC on this topic also indicated that they were in favor of a patent owner having an opportunity to file a revised MTA after receiving petitioner's opposition and preliminary guidance from the Board regarding its original MTA. *See* PTAB RFC Comments website.

As discussed in the RFC, a revised MTA includes one or more new proposed substitute claims in place of previously presented substitute claims. A revised MTA also may include substitute claims, arguments, or evidence previously presented in the original MTA, but may not incorporate any material by reference from the original MTA. A revised MTA may provide new arguments and/or evidence as to why the revised MTA meets statutory and regulatory requirements for an MTA, as well as arguments and evidence relevant to the patentability of pending substitute claims. A revised MTA must provide amendments, arguments, and/or evidence in a manner that is responsive to issues raised in the preliminary guidance and/or petitioner's opposition to the MTA. A revised MTA may not include amendments, arguments, and/or evidence that are unrelated to issues raised in the preliminary guidance and/or petitioner's opposition to the MTA.

If patent owner chooses to file a revised MTA, petitioner may file an opposition to the revised MTA and preliminary guidance (if requested). Patent owner may file a reply to the opposition to the revised MTA, and petitioner may file a corresponding sur-reply. Soon after patent owner files a revised MTA, the Board will issue a new scheduling order to accommodate the necessary additional briefing. *See* Appendix 1B (Revised MTA Timeline). Generally, the petitioner sur-reply relating to the revised MTA will be due 1 week before the oral hearing, and the oral hearing will take place about 9 weeks before the 12-month statutory deadline for a final written decision. *Id.* If a revised MTA is filed and substitute claims need to be addressed in the final written decision, then the final written decision will address only the substitute claims at issue in the revised MTA. In other words, newly added proposed substitute claims in the revised MTA must replace claims in the initial MTA.

As noted above, if the patent owner does not elect to receive preliminary guidance or to file a revised MTA, the MTA practice and the overall trial schedule are essentially unchanged from the current practice (with the exceptions noted above). In addition, as a general matter, there will be no changes to a scheduling order during a trial to accommodate additional MTA briefing unless, and only after, patent owner chooses to file a revised MTA, which will occur, if at all, approximately 30 weeks (about 7 months) after institution.

In view of those considerations, the effective date for the pilot program will be the publication date of this notice. A patent owner may use the pilot program, and therefore may choose to receive preliminary guidance from the Board on its MTA and/or to file a revised MTA, in any AIA case where the Board institutes a trial on or after the effective date. All cases that have been instituted prior to the effective date will proceed pursuant to the MTA practices and procedures in effect prior to the effective date. As noted in the RFC, the program is a ''pilot'' in the sense that the Office may modify MTA procedures in response to feedback and experience with the program during and/or after the course of the pilot program. The Office always welcomes continued feedback from the public.

II. Background

A. Current MTA Practices and Procedures

Under current MTA practices and procedures, patent owner's MTA is typically due about 3 months after a decision on institution (and on the same date as patent owner's response to the petition). Under 37 CFR 42.121(a) and 42.221(a), a patent owner is authorized to file such a motion, but ''only after conferring with the Board.'' Thus, the Board encourages the parties to request a conference call prior to the due date for an MTA if such a motion is contemplated.

Petitioner's opposition to the MTA is typically due about 3 months after the due date for the MTA (and on the same date as petitioner's reply to patent owner's response to the petition). Patent owner's reply to the opposition to the MTA is typically due about 1 month thereafter, and petitioner's sur-reply to the reply to the opposition to MTA is typically due about 1 month after the reply. Although additional MTAs cannot be filed without authorization, such motions may be authorized ''when there is a good cause showing or a joint request of the petitioner and the patent owner to materially advance a settlement.'' 37 CFR 42.121(c), 42.221(c); 35 U.S.C. 316(d)(3).

Patent owner's MTA may be contingent on the unpatentability of the original claims or may be non-contingent. Parties may, and typically do, present arguments relating to an MTA and related subsequent papers at the oral hearing (*e.g.,* 9 months after the decision to institute). The Board addresses an MTA in a final written decision. If the MTA is contingent, the final written decision addresses substitute claims only if corresponding original claims are found unpatentable.

B. Previous Feedback and Analysis of MTA Practices and Procedures

In June 2014, the Office published a Request for Comments in the **Federal Register** that requested comments on the Board's practice regarding MTAs. *See* Request for Comments on Trial Proceedings Under the America Invents Act Before the Patent Trial and Appeal Board, 79 FR 36474 (June 27, 2014). Comments from the public (including bar associations, corporations, law firms, and individuals) regarding MTAs ranged from seeking no change to the Board's current practice, to proposals for the grant of all motions to amend that meet 35 U.S.C. 316(d) statutory requirements without a review of patentability. Most comments focused on which party should bear the burden of proving the patentability or unpatentability of substitute claims proposed in an MTA, or on the scope of the prior art that must be discussed by a patent owner in its MTA. The feedback generally did not relate to the timing of MTAs or other aspects of Board procedure in considering such motions. The comments are available on the USPTO website: *https://go.usa.gov/xXXF8.*

In August 2015, the Office solicited further input from the public on ''[w]hat modifications, if any, should be made to the Board's practice regarding motions to amend.'' *See* Proposed Amendments to the Rules of Practice for Trials Before the Patent Trial and Appeal Board, 80 FR 50720, 50722–25 (Aug. 20, 2015) (hereinafter Proposed Amendments to

the Rules). Once again, in relation to MTAs, most comments focused on which party should bear the burden of proof on the patentability of substitute claims proposed in an MTA. The comments are available on the USPTO website: *https://go.usa.gov/x5SbK.* In addition, a few comments suggested using examiners to review the patentability of proposed substitute claims. On balance, the Office decided at that time not to implement changes to the Board's MTA procedures through rulemaking, but reaffirmed its commitment to continue to evaluate the best way to improve the Board's practice. *See* Proposed Amendments to the Rules, 80 FR at 50724–25; Amendments to the Rules of Practice for Trials Before the Patent Trial and Appeal Board, 81 FR 18750, 18755 (Apr. 1, 2016).

In an effort to better understand the Board's MTA practice, the Board undertook in early 2016 a study to determine: (1) The number of MTAs that had been filed in AIA trials, both as a cumulative total and by fiscal year; (2) subsequent developments in each MTA (*i.e.,* whether the motion was decided, rendered moot, withdrawn, or otherwise dismissed); (3) the number of MTAs requesting to substitute claims that were granted, granted-in-part, denied-in-part, and denied; and (4) the reasons the Board provided for denying entry of substitute claims. *See* MTA Study (Apr. 30, 2016), *https://go.usa.gov/xXXyT;* Data for 192 Completed Trials with an MTA, *https://go.usa.gov/xXXyZ* (last visited Mar. 11, 2019). The Board continues to collect data on motions to amend, and has published on its website an update to the study through March 31, 2018. *See https://go.usa.gov/xUJgB* (last visited Mar. 11, 2019).

The Office continued to receive feedback from the public regarding the Board's current MTA practice, including some concerns regarding the grant rate of claim amendments in AIA trial proceedings. Thus, in October 2018, the Office published a Request for Comments in the **Federal Register** that requested written public comments on a proposed amendment procedure in AIA trials that would have involved the Board issuing a preliminary non-binding decision that provides information relevant to the merits of an MTA, and provides a patent owner with an opportunity to revise its MTA thereafter. RFC, 83 FR at 54322–23. The RFC stated that the ''goal of the proposed amendment process and pilot program is to provide an improved amendment practice in AIA trials in a manner that is fair and balanced for all parties and stakeholders.'' *Id.* at 54320.

C. October 2018 RFC

As noted above, in the October 2018 RFC, the Office provided a proposed amendment procedure in AIA trials that included a preliminary non-binding decision by the Board on the merits of an MTA, and an opportunity for a patent owner to revise its MTA thereafter.[1] *See id.* at 54319. Specifically, in that proposal, after a patent owner filed an MTA that proposed substitute claims, and a petitioner filed an opposition (if it so chose), the Board would present an initial evaluation of the parties' submissions in a preliminary decision. *See id.* at 54322. In particular, the Board's preliminary decision would provide information relating to whether the MTA meets the statutory requirements of 35 U.S.C. 316(d) or 326(d) and the regulatory requirements of 37 CFR 42.121 or 42.221, and information relating to the patentability of the proposed substitute claims. *Id.*

The RFC presented a timeline for the MTA proposal. *See* RFC, 83 FR at 54325, App. A1. According to that timeline, the patent owner would have had 1.5 months to file an MTA, and petitioner would have had 1.5 months to file an opposition to the MTA (about half the time available under current procedures). The Board then would issue a preliminary decision, in every case involving an MTA, 1 month after the petitioner filed its opposition to the MTA. If the Board's preliminary decision indicated that the MTA was unlikely to be successful in whole or in part, the patent owner would have 1 month to file either a reply or a revised MTA. RFC, 83 FR at 54322–23. If the patent owner chose to file a reply, petitioner would have 1 month to file a sur-reply. *Id.* at 54323. If patent owner chose instead to file a revised MTA, the parties could file three additional briefs, each 1 month apart (petitioner's opposition to the revised MTA, patent owner's reply, and petitioner's sur-reply). *Id.* If the patent owner chose not to file any paper, the petitioner could file a reply to the preliminary decision 2 weeks after the due date for patent owner to file a reply or revised MTA, and the patent owner could file a sur-reply 2 weeks thereafter. *Id.*

In the RFC proposal, if the Board's preliminary decision indicated that the MTA was likely to succeed in its entirety, then petitioner would have 1 month after the preliminary decision to file a reply, and patent owner could file a sur-reply 1 month thereafter. *Id.*

In all of the alternatives proposed in the RFC, the oral hearing would have been scheduled at 9.5 months after the decision on institution (about 2 weeks later in the trial than under current procedures). *See* RFC, 83 FR at 54325, App. A1.

The RFC included a number of questions regarding the proposed amendment process and pilot program. RFC, 83 FR at 54324–35. Initially, the deadline to submit written comments was December 14, 2018, but the Office extended the deadline to December 21, 2018, in response to requests for such an extension from the public.

As discussed below, the Office has carefully considered the comments received in response to the RFC. Based on those comments, the Office has revised the proposal in the RFC. The revised pilot program announced in this notice is discussed in detail below.

III. Pilot Program: Option To Receive Preliminary Guidance by the Board on an MTA and an Opportunity To Revise the MTA

In the pilot program presented in this notice, the patent owner will have the opportunity to pursue an MTA in effectively the same way as current practice by not electing to either receive preliminary guidance or to file a revised MTA.

Under the pilot program, if the patent owner requests preliminary guidance on its MTA, the Board will provide preliminary guidance on the MTA typically in the form of a short paper after petitioner files its opposition to the MTA (or after the due date for the opposition, if none is filed). The patent owner will then have an opportunity to revise its MTA after receiving the petitioner's opposition and/or the preliminary guidance from the Board (if requested). If the patent owner chooses to file a revised MTA, the board will revise its scheduling order. The timing for briefing related to the revised MTA typically will be the timing shown in Appendix 1B (Revised MTA Timeline).

A revised MTA includes one or more new proposed substitute claims in place of previously presented substitute claims to address issues identified in the preliminary guidance and/or the petitioner's opposition. The presumption remains that only one substitute claim would be needed to replace each of the original substitute claims, absent a showing of need. 37 CFR 42.121(a)(3). A revised MTA may provide new arguments and/or evidence

[1] The RFC also sought comments as to whether the USPTO should engage in rulemaking to allocate the burden of persuasion when determining patentability of substitute claims as set forth in *Western Digital Corp.* v. *SPEX Techs., Inc.,* Case IPR2018–00082 (PTAB Apr. 25, 2018) (Paper 13). RFC, 83 FR at 54320. The USPTO plans to address that portion of the RFC separately.

as to why the revised MTA meets statutory and regulatory requirements for an MTA, as well as arguments and evidence relevant to the patentability of substitute claims pending in the revised MTA. A revised MTA must provide amendments, arguments, and/or evidence in a manner that is responsive to issues raised in the preliminary guidance and/or petitioner's opposition. A revised MTA may not include amendments, arguments, and/or evidence that are unrelated to issues raised in the preliminary guidance and/or petitioner's opposition to the MTA.

If patent owner chooses to file a revised MTA, petitioner may file an opposition to the revised MTA and preliminary guidance (if requested). Before the oral hearing, the patent owner also may file a reply to an opposition to the revised MTA, and the petitioner may file a corresponding sur-reply. During the oral hearing itself, both parties may address points raised and evidence discussed in the preliminary guidance and as briefed by the parties.

In response to petitioner's opposition to the MTA and/or the preliminary guidance (if requested), patent owner may take one of the following actions: (1) Reply to petitioner's opposition to the MTA and/or the preliminary guidance (if requested); (2) file a revised MTA; or (3) take no action and file no paper regarding the MTA on the due date for patent owner's reply or a revised MTA after the Board issues preliminary guidance (if requested). Depending on the action taken by patent owner, the case will proceed as further described in detail below.

A. General Procedures in the Pilot Program

In the pilot program, the filings of an MTA by patent owner and an opposition by petitioner to the MTA will proceed in substantially the same way as under current procedures. An MTA will be contingent on the unpatentability of the original claims unless the patent owner indicates otherwise or cancels the original claims.

The scheduling order will set dates for an MTA and briefing related thereto. The Scheduling Order will set forth the schedule for the ''PO Reply Timeline'' depicted in Appendix 1A. In particular, an MTA (if one is filed) will be due 12 weeks after the date of an institution decision (and on the same due date as the patent owner response). Petitioner's opposition to the MTA will be due 12 weeks after the due date for the MTA (and on the same due date as the petitioner reply). Consistent with current practice, the scheduling order will specify generally that the parties may stipulate to move certain due dates, but may not stipulate to move the last due date before the oral hearing or the date of the oral hearing. *See* Trial Practice Guide Update, App. A at 26–27 (Aug. 2018), available at *https://www.uspto.gov/sites/default/files/documents/2018_Revised_Trial_Practice_Guide.pdf* (last visited Mar. 11, 2019). In stipulating to move any due dates in the scheduling order, the parties must be cognizant that the Board requires approximately 4 weeks after the filing of an opposition to the MTA (or the due date for the opposition, if none is filed) for the Board to issue its preliminary guidance, if requested by patent owner.

If the patent owner indicates in its MTA that it requests preliminary guidance from the Board on the MTA, the Board will issue preliminary, non-binding guidance about the MTA no later than 4 weeks after the due date for petitioner's opposition to the MTA. The Board's preliminary guidance will focus on the limitations added in the Patent Owner's motion to amend, and will not address the patentability of the originally challenged claims. With that in mind, the preliminary guidance typically will take the form of a short paper that provides an initial discussion about whether there is a reasonable likelihood that the MTA meets statutory and regulatory requirements for an MTA, and also provides an initial discussion about whether petitioner (or the record before the Office) establishes a reasonable likelihood that the substitute claims are unpatentable, based on the existing record, including any opposition to the MTA and accompanying evidence.

To meet statutory and regulatory requirements, an MTA must, among other things: Propose a reasonable number of substitute claims; propose substitute claims that do not enlarge the scope of the claims of the challenged patent or introduce new subject matter; respond to a ground of unpatentability involved in the trial; and set forth written description support for each substitute claim. *See* 35 U.S.C. 316(d), 326(d); 37 CFR 42.121, 42.221; *see also Lectrosonics, Inc.* v. *Zaxcom, Inc.,* Case IPR2018–01129 (PTAB Feb. 25, 2019) (Paper 15) (precedential). Similar to an institution decision, preliminary guidance on an MTA during an AIA trial will not be binding on the Board, for example, when it renders a final written decision. The Board's preliminary guidance will not be a ''decision'' under 37 CFR 42.71(d), and thus parties may not file a request for rehearing of the preliminary guidance. Because the preliminary guidance does not reflect final agency action, it is not judicially reviewable (either independently or in any appeal from a final written decision). *See Chicago & Southern Air Lines* v. *Waterman S.S. Corp.,* 333 U.S. 103, 112–113 (1948); 35 U.S.C. 319(a). Instead, the parties may choose to respond to the preliminary guidance using the options discussed below.

Although preliminary guidance will not be binding on the Board's subsequent decisions or provide dispositive conclusions regarding MTA requirements or the patentability of substitute claims, it may provide information helpful to the parties. For example, the guidance may be helpful to patent owner as it determines whether and/or how to revise its MTA or to petitioner as it determines how to respond to a revised MTA, or to both parties as they determine how to respond to information discussed in the preliminary guidance.

As noted above, following the petitioner's opposition to the MTA and/or based on the Board's preliminary guidance (if requested), the patent owner may choose to file a reply to the opposition to the MTA and/or preliminary guidance, file a revised MTA, or do nothing.

Generally speaking, new evidence (including declarations) may be submitted with every paper in the MTA process, except a sur-reply. A sur-reply may only include cross-examination deposition transcripts as further discussed below. Once likely declarants are known, the parties should confer promptly as to dates for scheduling all depositions after the relevant papers are to be filed. Parties are expected to make their declarants available for such depositions promptly, and to make their attorneys available to take and defend such depositions; any unavailability will not be a reason to adjust the schedule for briefing on an MTA or revised MTA absent extraordinary circumstances. Again, it is incumbent upon the parties to work cooperatively to schedule depositions of their declarants. Thus, the Board strongly encourages the parties to meet and confer as soon as practicable (including before anticipated declarations are submitted, if possible) to coordinate schedules.

B. Patent Owner Files Reply to Petitioner Opposition to MTA

In the pilot program, the patent owner may choose to file a reply to the petitioner's opposition to the MTA and preliminary guidance (if requested), instead of filing a revised MTA. *See*

Appendix 1A. The due date for filing the reply is 6 weeks after the due date for petitioner's opposition to the MTA. Patent owner's reply may respond to the Board's preliminary guidance (if requested) and to the petitioner's opposition to the MTA (if filed). A patent owner may file new evidence, including declarations, with its reply. If patent owner files a reply, typically no change to the scheduling order will be made during the trial on the basis that patent owner has filed an MTA (*i.e.,* dates will remain as set forth in the scheduling order entered at the time of institution, shown in Appendix 1A).

The due date for petitioner's sur-reply relating to the MTA will be 6 weeks after the due date for patent owner's reply. As with all sur-replies generally, petitioner's sur-reply in this context may not be accompanied by new evidence other than deposition transcripts of the cross-examination of any reply witness. The sur-reply may respond only to the preliminary guidance (if requested) and arguments made in the patent owner's reply brief, comment on reply declaration testimony, and/or point to cross-examination testimony. Petitioner's sur-reply shall be due on the same due date as motions to exclude (*i.e.,* typically 6 weeks after the reply on the MTA is due).

If patent owner chooses to file a reply, rather than a revised MTA, the oral hearing will typically be conducted approximately 9 months after the institution decision, as in the Board's current practice.

C. Patent Owner Files Revised MTA

As an alternative to filing a reply as discussed above, a patent owner instead may decide to file a revised MTA after receiving petitioner's opposition and the Board's preliminary guidance (if requested). *See* Appendix 1B. The patent owner may file a revised MTA on the due date for such a filing (*i.e.,* 6 weeks after the due date for petitioner's opposition to the MTA).

A revised MTA includes one or more new proposed substitute claims in place of previously presented substitute claims, and may provide new arguments and/or evidence as to why the revised MTA meets statutory and regulatory requirements for an MTA, as well as arguments and evidence relevant to the patentability of pending substitute claims. A revised MTA also may include substitute claims, arguments, or evidence previously presented in the original MTA, but may not incorporate any material by reference from the original MTA. A revised MTA must provide amendments, arguments, and/or evidence in a manner that is responsive to issues raised in the preliminary guidance (if requested) or the petitioner's opposition to the MTA. A revised MTA may not include amendments, arguments, and/or evidence that are unrelated to issues raised in the preliminary guidance or the petitioner's opposition to the MTA.

In addition to proposing further amendments to the proposed substitute claims, a revised MTA may maintain some proposed substitute claims from the original MTA and reply to the preliminary guidance or opposition to the MTA as to those proposed substitute claims. A revised MTA will be contingent on the unpatentability of original claims unless the patent owner indicates otherwise or cancels the original claims. As noted above, newly added proposed substitute claims in the revised MTA must replace claims in the initial MTA. In addition, a patent owner may not make the claims proposed in the revised MTA contingent on the unpatentability of the claims proposed in the original MTA. If a revised MTA is filed and substitute claims need to be addressed in the final written decision, then the final written decision will address only the substitute claims at issue in the revised MTA. The Board will consider the entirety of the record, including parties' arguments and cited evidence relevant to the motion to amend, before reaching a final written decision on the substitute claims proposed in the latest version of the motion to amend filed by the patent owner.

By statute, the Board may allow additional motions to amend ''as permitted by regulations prescribed by the Director.'' 35 U.S.C. 316(d)(2). Under currently prescribed regulations, the Board may authorize an additional MTA when, for example, ''there is a good cause showing.'' 37 CFR 42.121(c), 42.221(c). For purposes of the pilot program discussed in this notice, the issuance of the Board's preliminary guidance addressing the initial MTA and/or the filing of a petitioner's opposition to the initial MTA provides ''good cause'' to file a revised MTA under 37 CFR 42.121(c) and 42.221(c). Each of those papers provides ''good cause'' because they present information relevant to whether an MTA meets statutory and regulatory requirements and/or whether proposed substitute claims meet the patentability requirements under the Patent Act in light of prior art of record.

Shortly after the patent owner files a revised MTA, the Board will issue a revised scheduling order to adjust the schedule, typically along the timeline shown in Appendix 1B (Revised MTA Timeline). The revised scheduling order will set the dates for petitioner's opposition to the revised MTA, patent owner's reply to the opposition to the revised MTA and motions to exclude, petitioner's sur-reply as to the revised MTA, and the oral hearing.

Both the opposition and the reply may be accompanied by new evidence that responds to issues raised in the preliminary guidance, or in the corresponding revised MTA or opposition. Petitioner's opposition to the revised MTA typically will be due 6 weeks after the revised MTA. Patent owner's reply to the opposition to the revised MTA typically will be due 3 weeks after the opposition (*i.e.,* 4 weeks before the oral hearing and 1 week before the due date for motions to exclude). Petitioner's sur-reply regarding the revised MTA typically will be due 3 weeks after the reply (*i.e.,* 1 week before the oral hearing). *See* Appendix 1B.

As discussed above, once the likely declarants are known, the parties should confer as to dates for scheduling depositions after the relevant papers are filed. Parties are expected to make their declarants, and their attorneys, available for such depositions promptly, and any unavailability will not be a reason to adjust the schedule for briefing on a revised MTA absent extraordinary circumstances. For example, because subsequent responsive papers are due 3 weeks later, if the petitioner submits a declaration with its opposition to the revised MTA, or patent owner submits a declaration with its reply to the opposition to the revised MTA, the party should typically make such declarant available for deposition within 1 week after filing that declaration.

Because patent owner's reply and petitioner's sur-reply as to a revised MTA are due near or after motions to exclude are due (*see* Appendix 1B), the parties might not have an opportunity to object to evidence submitted with the reply or sur-reply and file a motion to exclude such evidence before the oral hearing. *See* 37 CFR 42.64. Thus, if needed, a party may seek authorization to file a motion to exclude reply or sur-reply evidence after the oral hearing or may make an oral motion to exclude and argue such a motion at the oral hearing.

In the pilot program, if patent owner files a revised MTA, the oral hearing typically will be conducted 10 months after the institution decision (9 weeks before the statutory deadline), and the Board will typically issue its final written decision in accordance with the

statutory deadline. That said, the Board may, in its sole discretion, extend the 12-month deadline for good cause, on a case-by-case basis and for the minimum amount of time necessary to adequately address the issues presented. *See* 37 CFR 42.100(c), 42.200(c).

D. Patent Owner Files No Paper After Petitioner Opposition to MTA and/or Board Issues Preliminary Guidance (if Requested)

A patent owner may choose not to file either a reply or a revised MTA on the deadline for doing so. In this situation, if the Board has not issued preliminary guidance, no further briefing is authorized. If the Board has issued preliminary guidance, the petitioner may file a reply to that guidance in accordance with the scheduling order (typically within 3 weeks after the deadline for patent owner to have filed a paper), and the patent owner may file a sur-reply in response (typically within 3 weeks after the petitioner's reply is filed). In this situation, neither the reply nor sur-reply may be accompanied by new evidence. The petitioner's reply may only respond to the preliminary guidance, and the patent owner's sur-reply may only respond to arguments made in the petitioner's reply.

E. Patent Owner Withdraws MTA

A patent owner also may choose to withdraw its initial MTA. In this circumstance, no further briefing is authorized, and the Board will not address the MTA in a final written decision.

F. Examiner Assistance

If the petitioner ceases to participate altogether in an AIA trial in which the patent owner files an MTA, and the Board nevertheless exercises its discretion to proceed with the trial thereafter, the Board may, in its discretion, solicit patent examiner assistance regarding the MTA. Although the Board will consider the specific facts of each AIA trial, the Board generally does not anticipate proceeding in an AIA trial without petitioner involvement, absent a request from the patent owner to address its MTA. If solicited by the Board, the assistance, *e.g.,* by an examiner in the Central Reexamination Unit (''CRU''), could include the preparation of an advisory report that provides an initial discussion about whether an MTA meets certain statutory and regulatory requirements (*i.e.,* whether the amendment enlarges the scope of the claims of the patent or introduces new matter), as well as the patentability of proposed substitute claims, for example, in light of prior art that was provided by the patent owner and/or obtained in prior art searches by the examiner.

IV. Responses to the Request for Comments

As of December 21, 2018 (the closing date for comments), the Office received a total of 49 comments in response to the October 2018 RFC from intellectual property organizations, trade organizations, other organizations, and individuals. A substantial number of comments were submitted on behalf of healthcare industries and organizations and on behalf of electronic and computer industries and organizations. Commenters addressed a variety of different topics, but a significant number of both supporting and opposing commenters indicated concerns with the short time periods between due dates for different papers in the MTA procedure timeline proposed in the October 2018 RFC.

The Office appreciates the thoughtful comments, and has considered and analyzed the comments thoroughly. All of the comments are posted on the PTAB RFC Comments website. *See https://go.usa.gov/xEXS2.* The Office provides below a summary of some of the more common comments, and the Office's response thereto. The Office carefully considered all of the comments to the RFC when developing the pilot program presented in this notice.

Timeline

Comment 1: As noted above, a large number of comments, whether supportive of the proposal in the MTA RFC or not, indicated concerns with the time periods between due dates for different papers in that proposal. *See* RFC, 83 FR at 54325, App. A1 (presenting a proposed timeline). In particular, commenters were concerned that the times between due dates for filing papers were too short, and would be overly burdensome and increase costs to all parties. Commenters noted that the proposed short time periods between due dates would make it difficult to adequately draft and respond to papers. For example, commenters had concerns that patent owners would not have enough time to draft meaningful claim amendments at the start of the process, and petitioners would not have enough time after an MTA to develop reasons for unpatentability of proposed substitute claims, including by conducting prior art searches. Commenters were also concerned that the short time periods between due dates would hinder the parties' ability to discover and gather evidence. A number of commenters suggested modifications to the timeline in the proposal.

Response: The Office understands these concerns and has modified the proposal in the MTA RFC to provide parties more time to prepare filings and evidence. For example, the timeframes between the due dates for papers in the pilot program presented in this notice have been expanded from the proposed times in the prior RFC, with one minor exception. *See* Appendices 1A and 1B. In addition, the timeframes for many early papers filed in the pilot program are now essentially the same as current MTA practice. In making these revisions, the Office considered alternative proposals suggested by commenters, as well as current MTA practice. As a specific example of how the timeline has been modified in the pilot in this notice, the due date for patent owner's MTA (12 weeks from the Board's decision to institute) and the due date for petitioner's corresponding opposition to the MTA (12 weeks from patent owner's MTA) have been extended from 1.5 months proposed in the MTA RFC. Additionally, due dates for those papers now are essentially the same as those as in current MTA practice.

Further, in a case in which the patent owner does not file a revised MTA, the time for patent owner's reply to the opposition to the MTA and the time for petitioner's corresponding sur-reply both have been extended to 6 weeks (as compared to 1 month in the RFC). Where patent owner files a revised MTA, the due date to file patent owner's revised MTA and the due date for petitioner's corresponding opposition both have been extended to 6 weeks (as compared to 1 month). Although the time for filing a reply and sur-reply regarding a revised MTA has been decreased to 3 weeks (from 1 month in the RFC), the Office anticipates that this small decrease still allows sufficient time because of the limited scope of this briefing.

Comment 2 (cross-examination of declarants): The MTA RFC proposed that all cross-examinations, *i.e.,* depositions, of witnesses in relation to direct testimony (provided in declarations) pertaining to an MTA occur after the Board issued preliminary guidance on an MTA. Some commenters indicated concerns with not allowing depositions of witnesses prior to the Board issuing a preliminary decision, and also concerns with the timing of depositions generally in the RFC proposal. A number of commenters had specific concerns about whether the proposed timeline provided sufficient

time to conduct depositions. These commenters suggested that scheduling of depositions often requires a long lead-time, and that testimonial evidence may be important in drafting an MTA and the opposition to the MTA.

Response: As discussed above, the pilot program's adjusted timeline increases time between filings, and gives more time for depositions and related fact-development. Furthermore, the adjusted timelines coincide with substantive briefing on the petition, and so facilitate obtaining witness testimony for both MTA related papers and the underlying proceeding. The pilot program allows parties to present testimony in almost all MTA related filings, other than sur-replies. Thus, parties may, and will have sufficient time to, conduct depositions of witnesses prior to the Board issuing preliminary guidance, similarly to how parties conduct depositions under the current practice.

The pilot program emphasizes, however, that the parties should schedule the depositions of likely declarants as soon as possible to facilitate timely acquiring of cross-examination testimony prior to the next filing. For example, as noted above, because subsequent responsive papers are due 3 weeks later, if the petitioner submits a declaration with its opposition to a revised MTA, or patent owner submits a declaration with its reply to an opposition to a revised MTA, the party should typically make such declarant available for deposition within 1 week after filing that declaration.

As explained previously, the parties should meet and confer as soon as practicable to confirm deposition scheduling. Parties are expected to make their declarants promptly available for such depositions, and to make their attorneys available to take and defend such depositions; any unavailability will not be a reason to adjust the schedule for briefing on an MTA or revised MTA absent extraordinary circumstances. Again, it is incumbent upon the parties to work cooperatively to schedule depositions of their declarants. Thus, the Board strongly encourages the parties to meet and confer as soon as practicable (including before anticipated declarations are submitted, if possible) to coordinate schedules.

Comment 3: Some commenters expressed concerns regarding the discrepancy in time between MTA filings and filings in the underlying proceeding relating to the petition in the proposed timeline in the RFC. Those commenters suggested that the discrepancy could adversely affect parties' cases and create inefficiency because MTA filings and underlying proceeding filings may address the same or similar issues. A commenter noted that petitioner's opposition to the MTA may make arguments or advocate for claim constructions that create inconsistencies with petitioner's reply in the underlying proceeding. For example, patent owner's MTA may address a subset of issues that eventually also would be addressed in patent owner's response to the petition (*e.g.,* overlapping arguments responding to unpatentability arguments in the petition), but the petitioner's opposition to the MTA must address these arguments without the benefit of seeing all of patent owner's arguments in the patent owner's response. Similarly, under the timeline proposed in the RFC, the patent owner must file its revised MTA or reply to petitioner's opposition to the MTA without first seeing petitioner's arguments on unpatentability in the petitioner's reply to the petition.

Response: The Office appreciates this feedback and modifies the timing of filed papers in the pilot program in response to this comment, among others. In order for parties to efficiently address all issues with fully-developed arguments, most due dates in the pilot program relating to an MTA coincide with filing due dates for substantive briefing related to the underlying petition. *See* Appendices 1A and 1B. Thus, as in current MTA practice, the pilot program coordinates the due dates for many relevant papers in the trial. In particular, patent owner's MTA is due at the same time as patent owner's response to the petition, petitioner's opposition to the MTA is due at the same time as petitioner's reply in support of the petition, and patent owner's revised MTA or reply to the opposition to the MTA is due at the same time as patent owner's sur-reply to the petition.

Comment 4: Many commenters addressed the use of ''good cause'' extensions for a final written decision in cases involving MTAs as presented in the RFC, both supporting and opposing the use of such extension. *See* 37 CFR 42.100(c), 42.200(c). Some commenters favored routine extensions of the statutory deadline of 12 months in order to increase the times between due dates for filing papers, suggesting that the MTA itself provides a good cause basis for the extension. Other commenters disfavored such routine extensions and were concerned that routine extensions would be contrary to the expedited nature of AIA proceedings, would make it less likely for co-pending district court litigation to be stayed during AIA trials, and could be used for gamesmanship unrelated to the merits of the amendments.

Response: As discussed above, the adjusted timeline in the pilot program presented herein provides more time for the parties to prepare their MTA filings within the 12-month statutory deadline, and generally alleviates a need to extend this deadline. Thus, the Office does not anticipate extending the 12-month statutory deadline merely because a case involves an MTA (revised or otherwise) and related subsequent briefing and discovery (*e.g.,* depositions of declarants). That said, the Board may, in its sole discretion, extend the 12-month deadline for good cause, on a case-by-case basis and for the minimum amount of time necessary to adequately address the issues presented. *See* 37 CFR 42.100(c), 42.200(c).

Retroactivity

Comment 5: Multiple commenters indicated concerns if the Office decided to implement the MTA RFC pilot program retroactively to apply to already-filed petitions. Some commenters were concerned that petitioners would be unfairly prejudiced because petitions were filed assuming the current MTA practice would apply, but proceedings would commence under a different MTA procedure. Some commenters suggested that retroactively applying the pilot program to all proceedings would be a violation of the Administrative Procedure Act (''APA'').

Response: As noted above, the effective date of the pilot will be the publication date of this notice, and the new pilot program will be available only for AIA trial proceedings that are instituted on or after the effective date. This effective date does not prejudice either party unfairly because, among other things: (1) Patent owners may still proceed, if they choose, with a process that is essentially the same as the existing MTA process; (2) the timeline for filed papers for both parties is extended, as compared to the timeline presented in the RFC, *e.g.,* for an opposition to MTA; (3) as a general matter, there will be no changes to a scheduling order during a trial to accommodate additional MTA briefing unless, and only after, patent owner files a revised MTA, which will occur, if at all, approximately 30 weeks (about 7 months) after institution; (4) patent owners will need to designate whether they request preliminary guidance from the Board approximately 12 weeks (about 3 months) after institution, and only if they choose to file an MTA, *i.e.,*

therefore, at the earliest, about 3 months after the effective date of the pilot program; and (5) existing rules already provided for circumstances in which patent owners could file an additional MTA (37 CFR 42.121(c) and 42.221(c)).

Preliminary Guidance

Comment 6: Commenters largely favored the Board issuing a preliminary decision of some kind in cases in which an MTA is filed. Commenters noted that an understanding of the Board's preliminary assessment of an MTA gives both parties helpful information. For example, such information could aid patent owners in deciding whether to file a revised MTA. Further, such information could help inform both parties' evaluation as to settlement. There was concern, however, that automatically issuing a preliminary decision in every case with an MTA could dissuade settlement in some circumstances.

Response: Under the pilot program presented herein, the patent owner may request, in its initial MTA, that the Board provide preliminary guidance on the MTA. Thus, the Board will provide preliminary guidance only if a patent owner requests it.

Comment 7: Commenters expressed varying preferences on the content of the preliminary decision on an MTA. In particular, some commenters suggested the preliminary decision should be limited to whether the MTA meets statutory and regulatory requirements, while other commenters suggested that the preliminary decision should be more extensive and address patentability. Commenters advocating for more extensive preliminary decisions suggested including analysis of claim construction, compliance with 35 U.S.C. 101 and 112, fact-finding, legal conclusions, analysis of parties' arguments, prior art discussion, or suggestions to overcome patentability concerns. Some commenters were concerned with the increased burden preliminary decisions would place on the Board. Some commenters also expressed concern that a preliminary decision might address issues relevant to the original claims without the benefit of the parties' full briefing on those claims. Overall, however, a majority of commenters addressing the issue indicated support for preliminary guidance by the Board in some form.

Response: As discussed above, the Board will issue preliminary guidance if the patent owner requests it. The Board will present that guidance in the form of a short paper (although it may be oral guidance provided in a conference call, at the Board's discretion) that provides preliminary, non-binding information to the parties about the MTA. The Board's preliminary guidance will focus on the limitations added in the patent owner's MTA, and will not address the patentability of the originally challenged claims.

With that in mind, the preliminary guidance will likely be relatively brief and provide an initial discussion about whether there is a reasonable likelihood that the MTA meets statutory and regulatory requirements for an MTA. The preliminary guidance also will provide an initial discussion about whether petitioner (or the record before the Office) establishes a reasonable likelihood that that the substitute claims are unpatentable, based on the existing record, including any opposition to the MTA and accompanying evidence. The Board's guidance on an MTA during an AIA trial necessarily would be preliminary in nature and would not be binding on the Board, for example, when it renders a final written decision.

Opportunity To File Revised MTA

Comment 8: Commenters were almost evenly mixed in their support of or opposition to providing patent owners an opportunity to file a revised MTA. Commenters supporting revised MTAs believed that they offered a fair chance for a patent owner to capture patentable subject matter, especially after the patent owner understood the Board's preliminary views of the patentability of proposed substitute claims in the MTA or on compliance with statutory or regulatory requirements for the MTA. Commenters opposing revised MTAs were concerned that: The process could be used solely for tactical advantage, *e.g.,* to increase the cost or delay proceedings; patent owners would not file their most substantive claim amendments until filing a revised MTA; and revised MTAs would not increase the quality of MTAs or the number of granted MTAs because patent owners would not choose to propose substantial claim amendments in AIA trials for reasons independent of Board procedures (*e.g.,* based on concerns relating to intervening rights and infringement damages). Some commenters expressed concern that allowing a revised MTA in every case reads out the requirement for a showing of ''good cause'' in 37 CFR 42.121(c) and 42.221(c). Furthermore, some commenters suggested alternative claim amendment procedures, such as multiple rounds of claim amendments and multiple sets of alternative claim amendments filed concurrently, similar to European Patent Office procedure.

Response: The Office appreciates these comments. As noted above, the pilot program discussed herein provides patent owners with an opportunity to file a revised MTA. The Office is persuaded by comments indicating that this option provides a fair opportunity for patent owners to amend claims in AIA trials in situations where they wish to do so. The Office additionally notes that the process in the pilot program is essentially the same as existing practice unless the patent owner files a revised MTA, in which case each side generally will have to file one additional round of papers. Based on information available at this time, the Office determines that costs associated with providing this option, if any, are balanced by furthering an important mission of the Office to provide fair procedures in AIA trials, including a meaningful opportunity for patent owners to amend their claims during AIA trials in order to receive appropriately-scoped claims. The Office finds at this time that the pilot program balances the various interests and concerns identified by the comments.

In addition, the revised motion to amend is not a second motion to amend per se, but rather a revised version of the initially-filed motion to amend. For purposes of the pilot program, to the extent that a revised motion to amend is deemed to be a second motion to amend, however, the filing of an opposition to an initial MTA by a petitioner, or the issuance of preliminary guidance by the Board, provides ''a good cause showing'' for purposes of the filing of a revised MTA under 37 CFR 42.121(c) and 42.221(c). The Office determines that each of those papers provides ''good cause'' because they present information relevant to whether an MTA meets statutory and regulatory requirements and/or whether proposed substitute claims meet the patentability requirements under the Patent Act in light of prior art of record.

As noted previously, the program is a ''pilot'' in the sense that the Office may modify MTA procedures in response to feedback and experience with the program during and/or after the course of the pilot program. If concerns expressed in the comments, such as using the program solely for tactical advantage, are realized, the Office may modify, terminate, or otherwise alter the pilot program in view of actual experience. The Office always welcomes feedback from the public on all aspects of the pilot, including during or after the course of this program.

Contingent Motions To Amend

Comment 9: Commenters were almost evenly mixed on whether MTAs should be contingent, *i.e.,* the Board provides a final decision on the patentability of a proposed substitute claim only if it determines that a corresponding original claim is unpatentable, or non-contingent, *i.e.,* the Board provides a final decision on the patentability of substitute claims in place of determining the patentability of corresponding original claims. Some commenters favored every MTA being contingent, while other commenters favored every MTA being non-contingent. Some commenters favored a mixed-approach in which patent owners opting-out of the pilot may file contingent MTAs, while patent owners proceeding under the pilot program may file only non-contingent MTAs. The commenters favoring a mixed approach believed that treatment of MTAs as non-contingent under the pilot represented a fair trade-off for the proposal in the MTA RFC and would also decrease the Board's burden under that proposal.

Response: The Office appreciates the comments. Under the pilot program, consistent with current practice, patent owners may continue to choose whether MTAs (both initial and revised) are contingent or non-contingent. As noted above, patent owners may still proceed, if they choose, with a process that is essentially the same as the existing MTA process, *e.g.,* regarding the general timing of due dates and costs associated with filing papers and evidence. In addition, although a patent owner has an option to file a revised MTA, that filing triggers deadlines for subsequent related papers that are extended compared to deadlines in the timeline proposed in the RFC. Based on information available at this time, the Office is persuaded by concerns that if the pilot program required MTAs to be non-contingent, it might inappropriately deter patent owners from filing MTAs on that basis alone.

As noted above, the program is a ''pilot'' in the sense that the Office may modify MTA procedures in response to feedback and experience with the program during and/or after the course of the pilot program. If it appears, in view of actual experience, that there are sufficient reasons for requiring MTAs to be non-contingent, the Office may revisit this issue and modify the pilot program accordingly. The Office always welcomes feedback from the public on all aspects of the pilot, including during or after the course of this program.

Opt-Out

Comment 10: Many commenters favored some form of opting-out of the pilot program. Some commenters believed it should be solely the patent owner's choice to opt-out, while others believed that both the patent owner and the petitioner must agree to opt-out of the pilot program. Some commenters suggested that allowing parties to opt-out would save Board resources. Some commenters also suggested that, without an opt-out option, the program would not actually be a pilot because it would apply to every proceeding with an MTA, potentially creating a problem under the APA by effectively changing the MTA process completely without formal rulemaking.

Response: As discussed in detail above, the pilot program is the same as current MTA practice in many ways, especially regarding the timing of due dates for already existing papers in an AIA trial. Patent owners also may choose to proceed with a process that is essentially the same as the existing MTA process by electing not to obtain preliminary guidance from the Board or to file a revised MTA. Thus, with minimal exceptions, current MTA practice is available unchanged, and now further includes additional available options with the pilot program.

Amendments Through Reissue or Reexamination

Comment 11: In response to the October 2018 RFC, the Office received a number of comments and questions relating to reissue or reexamination as an alternative vehicle for claim amendments. The comments included requests for clarification regarding existing reissue and reexamination procedures at the Office.

Response: In response to these comments and questions, in a future notice, the Office will separately provide information regarding existing reissue and reexamination options for patent owners, including procedures for options after a petitioner files an AIA petition challenging claims of the same patent, after the Board institutes a trial, and after the Board issues a final written decision.

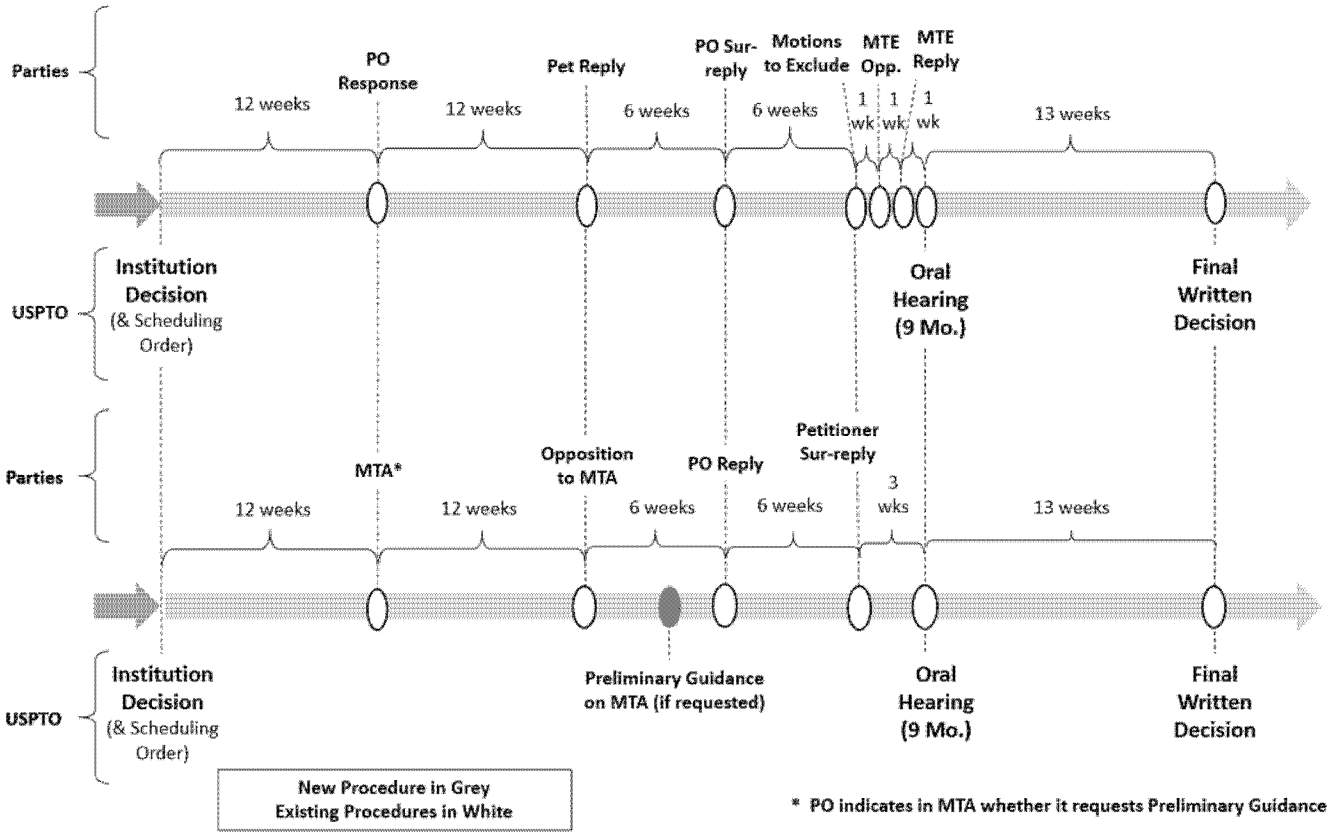
Dated: March 12, 2019.

Andrei Iancu,

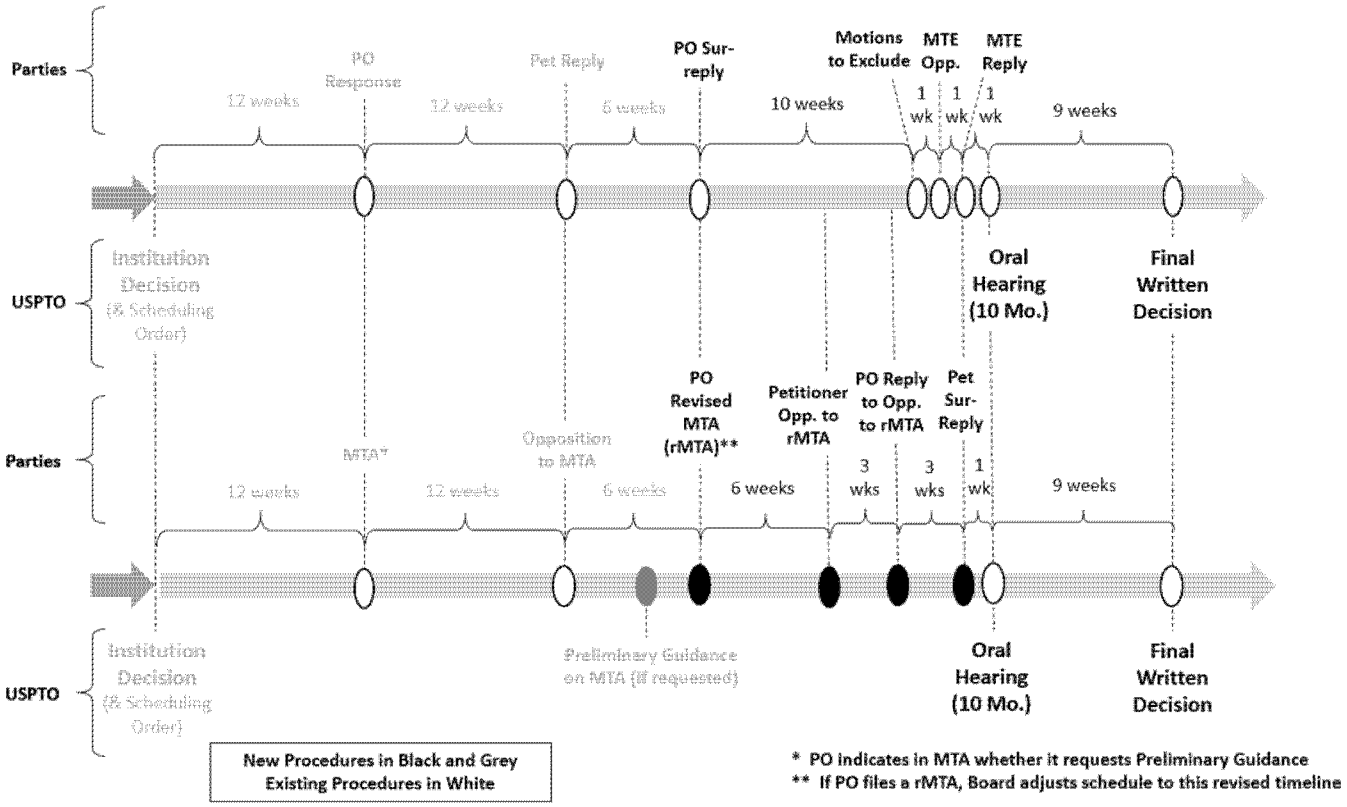
Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

BILLING CODE 3510–16–P

APPENDIX 1A (PO REPLY TIMELINE)



APPENDIX 1B (REVISED MTA TIMELINE)



[FR Doc. 2019–04897 Filed 3–14–19; 8:45 am]
BILLING CODE 3510–16–C

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Additions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed additions to the Procurement List.

SUMMARY: The Committee is proposing to add products and a service to the Procurement List that will be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

DATES: *Comments must be received on or before:* April 14, 2019.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, 1401 S. Clark Street, Suite 715, Arlington, Virginia 22202–4149.

FOR FURTHER INFORMATION CONTACT: For further information or to submit comments contact: Michael R. Jurkowski, Telephone: (703) 603–2117, Fax: (703) 603–0655, or email *CMTEFedReg@AbilityOne.gov.*

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 8503 (a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the proposed actions.

Additions

If the Committee approves the proposed additions, the entities of the Federal Government identified in this notice will be required to procure the products and service listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

The following products and service are proposed for addition to the Procurement List for production by the nonprofit agencies listed:

Products

NSNs—Product Names:
MR 10777—Platters, Christmas, Red, Includes Shipper 20777
MR 10778—Platters, Christmas, Blue, Includes Shipper 20777
MR 10742—Skewer, Marshmallow, Includes Shipper 20742
Mandatory Source of Supply: Winston-Salem Industries for the Blind, Inc., Winston-Salem, NC
Mandatory for Contracting Activity: Military Resale-Defense Commissary Agency
7930–00–NIB–2184—Towelettes, Lens Cleaning, Pocket Sized
Mandatory Source of Supply: West Texas Lighthouse for the Blind, San Angelo, TX
Mandatory For: Total Government Requirement
Contracting Activity: FEDERAL ACQUISITION SERVICE, GSA/FSS GREATER SOUTHWEST ACQUISITI

Service

Service Type: IT Support Service

Mandatory for Contracting Activity: DoD, Defense Health Agency, Health Information Technology Directorate, Falls Church, VA

Mandatory Source of Supply: Global Connections to Employment (GCE), Inc., Pensacola, FL

Patricia Briscoe,

Deputy Director, Business Operations (Pricing and Information Management).

[FR Doc. 2019–04890 Filed 3–14–19; 8:45 am]

BILLING CODE 6353–01–P

DEPARTMENT OF DEFENSE

Department of the Army

Intent To Grant an Exclusive License for U.S. Government-Owned Invention

AGENCY: Department of the Army, DoD.

ACTION: Notice.

SUMMARY: In accordance with applicable laws and regulations, announcement is made of the intent to grant an exclusive, royalty-bearing, revocable license.

ADDRESSES: Commander, U.S. Army Medical Research and Materiel Command, ATTN: Director, Office of Research and Technology Applications, 1520 Freedman Drive, Suite 227, Fort Detrick, MD 21702–5012.

FOR FURTHER INFORMATION CONTACT: Dr. Paul Michaels, Office of Research & Technology Applications, (301) 619–4145. For patent issues, Ms. Elizabeth Arwine, Patent Attorney, (301) 619–7808, both at telefax (301) 619–5034.

SUPPLEMENTARY INFORMATION: In accordance with 35 U.S.C. 209(e) and 37 CFR 404.7(a)(1)(i), announcement is made of the intent to grant an exclusive, royalty-bearing, revocable license to United States Patent Application 15/835,049, filed December 7, 2017, entitled ''Systems, Apparatus, and Method Related to Modeling, Monitoring, and/or Managing Metabolism'' and United States Provisional Patent Application 62/672,443 filed May 16, 2018 entitled ''A System for Passive, Proportional Measurement of Oxygen and Carbon Dioxide Consumption for Assessment of Metabolic Parameters,'' to the Massachusetts Institute of Technology, having its principal place of business at 77 Massachusetts Avenue, Cambridge, MA 02139.

Anyone wishing to object to grant of this license can file written objections along with supporting evidence, if any, within 15 days from the date of this publication. Written objections are to be filed with the Director, Office of Research and Technology Applications (see **ADDRESSES**).

Brenda S. Bowen,

Army Federal Register Liaison Officer.

[FR Doc. 2019–04863 Filed 3–14–19; 8:45 am]

BILLING CODE 5001–03–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

[Docket Number DARS–2019–0010; OMB Control Number 0704–0250]

Information Collection Requirements; Defense Federal Acquisition Regulation Supplement; DFARS Part 242, Contract Administration and Related Clause in DFARS 252

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Notice and request for comments regarding a proposed extension of an approved information collection requirement.

SUMMARY: In compliance with section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, DoD announces the proposed extension of a public information collection requirement and seeks public comment on the provisions thereof. *DoD invites comments on:* Whether the proposed collection of information is necessary for the proper performance of the functions of DoD, including whether the information will have practical utility; the accuracy of the 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 the use of automated collection techniques or other forms of information technology. The Office of Management and Budget (OMB) has approved this information collection for use through May 31, 2019. DoD proposes that OMB extend its approval for use for three additional years beyond the current expiration date.

DATES: DoD will consider all comments received by May 14, 2019.

ADDRESSES: You may submit comments, identified by OMB Control Number 0704–0250, using any of the following methods:

○ *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

○ *Email: osd.dfars@mail.mil.* Include OMB Control Number 0704–0250 in the subject line of the message.

○ *Fax:* 571–372–6094.

○ *Mail:* Defense Acquisition Regulations System, Attn: Ms. Kimberly Bass, OUSD(A&S)DPC(DARS), 3060 Defense Pentagon, Room 3B941, Washington, DC 20301–3060.

Comments received generally will be posted without change to *http://www.regulations.gov,* including any personal information provided.

FOR FURTHER INFORMATION CONTACT: Ms. Kimberly Bass, telephone 571–372–6174.

SUPPLEMENTARY INFORMATION:

Title and OMB Number: Information Collection in Support of the Defense Federal Acquisition Regulation Supplement (DFARS) Part 242; Contract Administration and related clause in DFARS 252; OMB Control Number 0704–0250.

Needs and Uses: The Government requires this information in order to perform its contract administration functions. The information required by DFARS clause 252.242–7004, Material Management and Accounting System, is used by contracting officers to determine if contractor material management and accounting systems conform to established DoD standards.

Affected Public: Businesses or other for-profit and not-for-profit institutions.

Respondent's Obligation: Required to obtain or retain benefits.

Frequency: On occasion.

Type of Request: Revision.

Number of Respondents: 261.

Responses per Respondent: 1.

Annual Responses: 261.

Average Burden per Response: 475 hours.

Annual Burden Hours: 123,975.

Reporting Frequency: On Occasion.

Summary of Information Collection

DFARS clause 252.242–7004 requires a contractor to establish and maintain a material management and accounting system for applicable contracts, to provide results of system reviews, and disclose significant changes in its system.

Jennifer Lee Hawes,

Regulatory Control Officer, Defense Acquisition Regulations System.

[FR Doc. 2019–04834 Filed 3–14–19; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

Notice of Intent/NEPA Scoping Meeting and Public Comment Period for the Grand River Habitat Restoration and Invasive Species Control Project, Grand Rapids, Michigan

AGENCY: Department of the Army, U.S. Army Corps of Engineers, DoD.

ACTION: Notice of intent.

SUMMARY: Pursuant to the requirements of the National Environmental Policy Act (NEPA) of 1969, as implemented by the Council on Environmental Quality Regulations, the U.S. Army Corps of Engineers (USACE) Detroit District, announces its intent to conduct public scoping and solicit public comments to gather information to prepare a draft Environmental Impact Statement (EIS) on behalf of the Great Lakes Fishery Commission (GLFC) related to the proposed Grand River Habitat Restoration and Invasive Species Control Project in Grand Rapids, Michigan. The project must provide a means to block sea lamprey from moving upstream, as this invasive species is currently blocked by the existing 6th Street Dam in the Grand River, must maintain or reduce the current risk of flooding upstream, and must provide for fish passage into upstream areas. If implemented, the project is expected to adversely impact existing healthy mussel population, which includes the federally-listed endangered scaleshell and snuffbox mussels as well as a number of state-listed mussel species.

DATES: Comments for consideration in the development of the scope of the NEPA draft EIS are due no later than May 15, 2019. Comments may also be made at the public scoping meeting as noted below. All comments and materials received, including names and addresses, will become part of the administrative record and may be released to the public.

ADDRESSES: The public is invited to submit written comments at the meeting and/or to Mr. Charles A. Uhlarik, Department of the Army, U.S. Army Corps of Engineers, Detroit District, Environmental Analysis Branch, 477 Michigan Avenue, Detroit, MI 48226 or via email to: *Comments-Grand-River@usace.army.mil.*

FOR FURTHER INFORMATION CONTACT: Mr. Charles A. Uhlarik, 313–226–2476.

SUPPLEMENTARY INFORMATION: The U.S. Fish and Wildlife Service (USFWS) and the GLFC are tasked with protecting federally endangered species and managing invasive sea lamprey populations in the Great Lakes, respectively. These agencies approached the USACE, Detroit District to assist with the evaluation of the proposed project due to the potential for constructing a new sea lamprey control structure on the Grand River and potential for modifications of the existing barrier to sea lamprey at 6th Street Dam. Therefore, the USACE, Detroit District is preparing this draft EIS on behalf of the GLFC, and is a cooperating agency in the NEPA process based on the Detroit District's expertise in flood risk management and in sea lamprey barrier design. The USFWS is also a cooperating agency because of the anticipated impacts to federally-listed endangered mussels. While USACE, Detroit District will be conducting the public scoping associated with the draft EIS and the preparation of the draft and final EIS, the GLFC will ultimately be responsible for signing a Record of Decision at the end of this process as the lead agency for this effort.

Proposed Project: A draft EIS is being proposed for a multipurpose restoration project in the Grand River, in downtown Grand Rapids, Michigan. The intent of the project is to restore, enhance, and maintain the rapids in the Grand River from upstream of Ann Street to Fulton Street, and may include habitat, recreation and invasive species control features.

Proposed Project Purpose and Need: The ecosystem processes and recreational functions of the Grand River have been degraded by channelization, dredging, and urban development in the reach that flows through the city of Grand Rapids. A series of five low-head dams and more than a mile of floodwalls on both sides of the river have constrained the physical, chemical, and biological processes of the river ecosystem within this highly urbanized reach of the river. Only one percent of riparian areas in the lower peninsula of Michigan is comprised of rapids-type habitat, which is critical to the lifecycle of many aquatic species. Furthermore, the rapids have a significant economic benefit associated with outdoor recreation.

Alternatives: There is a vested interest by local stakeholders in restoring the rapids habitat in this stretch of the Grand River in downtown Grand Rapids. A healthy mussel population, that includes the federally-listed endangered scaleshell and snuffbox mussels as well as a number of state-listed mussel species, is expected to be adversely impacted by this project, based on mussel surveys conducted in 2016 and informal consultation with the USFWS. Project alternatives must take into account the impacted mussels as well as providing a means to block sea lamprey from moving upstream, as this invasive species is currently blocked by the existing 6th Street Dam in the Grand River, must maintain or reduce the current risk of flooding upstream, and must provide for fish passage into upstream areas. An outcome of the NEPA public scoping process is the formulation/development of a range of project alternatives based on public input and agency expertise so that the project can be developed in a manner that is consistent with sound engineering practice and meets all applicable environmental laws and regulations. The draft EIS will consider the direct, indirect, and cumulative impacts of alternatives on affected resources that are identified during the scoping process, including, but are not limited to: Water quality, stream flows, air quality, fish and wildlife (including federally-listed endangered species and their designated critical habitat), floodplains, wetlands, climate, cultural resources, and social and economic resources such as noise, aesthetics, environmental justice.

Scoping Process/Public Involvement: The USACE, Detroit District is issuing this notice, on behalf of the GLFC to: (1) Inform other Federal and state agencies, tribes, and the public of their plan to analyze effects related to implementation of the Grand River Habitat Restoration and Invasive Species Control Project in Grand Rapids, Michigan; (2) obtain suggestions and information that may inform the scope of issues and range of alternatives to evaluate in the draft EIS; (3) request input on potential effects to federally-listed endangered species and their critical habitat in accordance with the Endangered Species Act; and (4) provide notice and request input on potential effects on historic properties in accordance with Section 106 of the National Historic Preservation Act (NHPA).

The scoping process will help identify reasonable prudent alternatives, facilitate the evaluation of potential effects to the human and natural environments and key issues of concern to be analyzed in the draft EIS. The USACE, Detroit District, on behalf of the GLFC, intends to comply with the requirements of the Endangered Species Act by undergoing formal Section 7 Consultation with the USFWS. Additionally, the USACE, Detroit District, on behalf of the GLFC, intends to comply with the requirements of

Section 106 of the NHPA in parallel with the NEPA process. The USACE, Detroit District invites federal, state, and local agencies, federally-recognized Native American Tribes, the State Historic Preservation Office, other interested parties, and the general public to participate in the NEPA scoping process for the preparation of this draft EIS by attending meetings and/or submitting written comments.

The NEPA Public Scoping open house style meeting will be held at the DeVos Place Convention Center, 303 Monroe Avenue NW, Grand Rapids, MI 49503 on Monday, April 8, 2019 from 3:30 p.m. until 7:30 p.m. to provide information to the public, serve as a mechanism to solicit agency and public input to develop alternatives and issues of concern, and ensure full and open participation in scoping of the draft EIS. A short, informal presentation will be held at 4:00 p.m. and 6:00 p.m. to provide more detail on the project. Written comments will also be requested. Additional information related to the public scoping process will be provided through news releases to the media, advertisements placed in regional/local newspapers of general circulation, Public Notice, and/or on the project website at: *https://www.lre.usace.army.mil/Missions/Environmental-Services/.*

Upon completion of the scoping process, the draft EIS will be developed and circulated for public review and comment. The USACE Detroit District expects to release the draft EIS for public review and comment in late 2019. The USACE Detroit District will issue a Notice of Availability in the **Federal Register** announcing the release of the draft EIS for public comment through news releases to the media, advertisements placed in regional/local newspapers of general circulation, Public Notice, and/or on the project website listed above.

Charles A. Uhlarik,

Chief, Environmental Analysis Branch, USACE, Detroit District.

[FR Doc. 2019–04864 Filed 3–14–19; 8:45 am]

BILLING CODE 3720–58–P

DEFENSE NUCLEAR FACILITIES SAFETY BOARD

Sunshine Act Meetings

TIME AND DATE: 2 p.m.–4 p.m., March 19, 2019.

PLACE: Defense Nuclear Facilities Safety Board, 625 Indiana Avenue NW, Suite 700, Washington, DC 20004.

STATUS: Closed. During the closed meeting, the 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.

MATTERS TO BE CONSIDERED: The meeting will proceed in accordance with the closed meeting agenda which is posted on the Board's public website at *www.dnfsb.gov.* Technical staff may present information to the Board. The Board Members are expected to conduct deliberations regarding potential Recommendations to the Secretary of Energy.

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: March 12, 2019.

Bruce Hamilton,

Chairman.

[FR Doc. 2019–04942 Filed 3–13–19; 11:15 am]

BILLING CODE 3670–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER19–1230–000]

TRS Fuel Cell, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of TRS Fuel Cell, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is April 1, 2019.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for electronic review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the website that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: March 11, 2019.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2019–04846 Filed 3–14–19; 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: EC19–66–000.

Applicants: Ashtabula Wind II, LLC, Garden Wind, LLC, Marshall Solar, LLC,

Roswell Solar, LLC, Silver State Solar Power South, LLC, White Oak Energy LLC, NEP US SellCo, LLC, NEP US SellCo II, LLC, NextEra Energy Partners Acquisitions, LL.

Description: Application for Authorization Under Section 203 of the Federal Power Act, et al. of Ashtabula Wind II, LLC, et al. under EC19–66.

Filed Date: 3/7/19.

Accession Number: 20190307–5194.

Comments Due: 5 p.m. ET 3/28/19.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–3193–013.

Applicants: Brooklyn Navy Yard Cogeneration Partners, L.P.

Description: Supplement to August 23, 2018 Notice of Non-Material Change in Status of Brooklyn Navy Yard Cogeneration Partners, L.P.

Filed Date: 3/1/19.

Accession Number: 20190301–5363.

Comments Due: 5 p.m. ET 3/22/19.

Docket Numbers: ER10–2042–028 ; ER10–1945–008; ER10–1944–006; ER10–2051–008; ER10–1942–020; ER17–696–008; ER14–2931–006; ER10–1941–010; ER10–2043–008; ER10–2029–010; ER10–2041–008; ER18–1321–001; ER10–2040–008; ER10–1938–023; ER10–2036–009; ER13–1407–007; ER10–1934–022; ER10–1893–022; ER10–3051–027; ER10–2985–026; ER10–3049–027; ER10–1889–006; ER10–1888–010; ER10–1885–010; ER15–748–004; ER10–1884–010; ER10–1883–010; ER10–1878–010; ER10–3260–008; ER10–1877–005; ER10–1895–006; ER10–1876–010; ER10–1875–010; ER10–1873–010; ER10–1871–007; ER10–1870–006; ER11–4369–007; ER16–2218–007; ER12–1987–008; ER10–1947–010; ER12–2645–003; ER10–1863–006; ER10–1862–022; ER10–1933–005; ER12–2261–009; ER10–1865–009; ER10–1858–006; ER13–1401–006; ER10–2044–008.

Applicants: Calpine Energy Services, L.P., Auburndale Peaker Energy Center, L.L.C., Bethpage Energy Center 3, LLC, Calpine Bethlehem, LLC, Calpine Construction Finance Company, LP, Calpine Energy Solutions, LLC, Calpine Fore River Energy Center, LLC, Calpine Gilroy Cogen, L.P., Calpine Mid-Atlantic Generation, LLC, Calpine Mid-Atlantic Marketing, LLC, Calpine Mid-Merit II, LLC, Calpine Mid-Merit, LLC Calpine New Jersey Generation, LLC, Calpine Power America—CA, LLC, Calpine Vineland Solar, LLC, CCFC Sutter Energy, LLC, CES Marketing IX, LLC, CES Marketing X, LLC, Champion Energy, LLC, Champion Energy Marketing LLC, Champion Energy Services, LLC, CPN Bethpage 3rd Turbine, Inc., Creed Energy Center, LLC, Delta Energy Center, LLC, Geysers Power Company, LLC, Gilroy Energy Center, LLC, Goose Haven Energy Center, LLC, Granite Ridge Energy, LLC, Hermiston Power, LLC, KIAC Partners, Los Esteros Critical Energy Facility LLC, Los Medanos Energy Center, LLC, Metcalf Energy Center, LLC, Morgan Energy Center, LLC, Nissequogue Cogen Partners, North American Power and Gas, LLC, North American Power Business, LLC, O.L.S. Energy-Agnews, Inc., Otay Mesa Energy Center, LLC, Pastoria Energy Facility L.L.C., Pine Bluff Energy, LLC, RockGen Energy, LLC, Power Contract Financing, L.L.C., Russell City Energy Company, LLC, South Point Energy Center, LLC, Westbrook Energy Center, LLC, Zion Energy LLC, TBG Cogen Partners, Garrison Energy Center LLC.

Description: Supplement to July 31, 2018 Notification of Change in Status of the Calpine MBR Sellers (Attachments E & F workable Excel spreadsheets).

Filed Date: 3/7/19.

Accession Number: 20190307–5108.

Comments Due: 5 p.m. ET 3/28/19.

Docket Numbers: ER10–2042–029 ; ER10–1942–021; ER17–696–009; ER10–1938–024; ER10–1934–023; ER10–1893–023; ER10–3051–028; ER10–2985–027; ER10–3049–028; ER11–4369–008; ER16–2218–008; ER10–1862–023.

Applicants: Calpine Energy Services, L.P., Calpine Construction Finance Company, LP, Calpine Energy Solutions, LLC, Calpine Power America—CA, LLC, CES Marketing IX, LLC, CES Marketing X, LLC, Champion Energy, LLC, Champion Energy Marketing LLC, Champion Energy Services, LLC, North American Power and Gas, LLC, North American Power Business, LLC, Power Contract Financing, L.L.C.

Description: Supplement to August 31, 2018 Notification of Change in Status of the Indicated Calpine MBR Sellers (Asset Appendix workable Excel file).

Filed Date: 3/7/19.

Accession Number: 20190307–5110.

Comments Due: 5 p.m. ET 3/28/19.

Docket Numbers: ER19–1213–000.

Applicants: Wabash Valley Power Association, Inc.

Description: § 205(d) Rate Filing: Filing of New Wholesale Power Supply Contracts to be effective 7/1/2019.

Filed Date: 3/7/19.

Accession Number: 20190307–5178.

Comments Due: 5 p.m. ET 3/28/19.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: March 8, 2019.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2019–04840 Filed 3–14–19; 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 corporate filings:

Docket Numbers: EC18–61–001.

Applicants: Clearway Energy, Inc., Clearway Renew LLC, Carlsbad Energy Center LLC.

Description: Notification of Consummation and Change in Circumstances of Clearway Energy, Inc., et al.

Filed Date: 3/8/19.

Accession Number: 20190308–5122.

Comments Due: 5 p.m. ET 3/29/19.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER19–1214–000.

Applicants: Southwestern Electric Power Company.

Description: § 205(d) Rate Filing: SWEPCO–AECC Foreman Delivery Point Agreement to be effective 2/18/2019.

Filed Date: 3/8/19.

Accession Number: 20190308–5051.

Comments Due: 5 p.m. ET 3/29/19.

Docket Numbers: ER19–1215–000.

Applicants: Cricket Valley Energy Center, LLC.

Description: Baseline eTariff Filing: Application Market-Based Rate Authorization and Request for Waivers to be effective 5/8/2019.

Filed Date: 3/8/19.

Accession Number: 20190308–5079.

Comments Due: 5 p.m. ET 3/29/19.

Docket Numbers: ER19–1216–000.

Applicants: Northwest Ohio Wind, LLC.

Description: Baseline eTariff Filing: Reactive Service Revenue Requirement to be effective 5/8/2019.

Filed Date: 3/8/19.

Accession Number: 20190308–5095.

Comments Due: 5 p.m. ET 3/29/19.

Docket Numbers: ER19–1217–000.

Applicants: Montana-Dakota Utilities Co.

Description: Compliance filing: Baseline Tariff Refiling and Request for Administrative Cancellation to be effective 1/18/2019.

Filed Date: 3/8/19.

Accession Number: 20190308–5099.

Comments Due: 5 p.m. ET 3/29/19.

Docket Numbers: ER19–1219–000.

Applicants: Midcontinent Independent System Operator, Inc.

Description: § 205(d) Rate Filing: 2019–03–08_SA 6510_MISO-Cleco 2nd Renewal SSR Agreement for Teche Unit No. 3 to be effective 4/1/2019.

Filed Date: 3/8/19.

Accession Number: 20190308–5167.

Comments Due: 5 p.m. ET 3/29/19.

Docket Numbers: ER19–1220–000.

Applicants: PacifiCorp.

Description: Tariff Cancellation: Term of BPA Hermiston Interchange Move Agmt to be effective 5/20/2019.

Filed Date: 3/8/19.

Accession Number: 20190308–5170.

Comments Due: 5 p.m. ET 3/29/19.

Docket Numbers: ER19–1221–000.

Applicants: Midcontinent Independent System Operator, Inc.

Description: § 205(d) Rate Filing: 2019–03–08_SA 3258 Big Rivers Electric Corp.—OSER LLC GIA (J753) to be effective 2/22/2019.

Filed Date: 3/8/19.

Accession Number: 20190308–5176.

Comments Due: 5 p.m. ET 3/29/19.

Docket Numbers: ER19–1222–000.

Applicants: Montana-Dakota Utilities Co.

Description: Compliance filing: Refilling Tariff Records to be effective 1/18/2019.

Filed Date: 3/8/19.

Accession Number: 20190308–5179.

Comments Due: 5 p.m. ET 3/29/19.

Docket Numbers: ER19–1223–000.

Applicants: Midcontinent Independent System Operator, Inc., AEP Indiana Michigan Transmission Company.

Description: § 205(d) Rate Filing: 2019–03–08_Rate Schedule 53_Duke IMTCo Interim Revenue Distribution Agreement to be effective 3/9/2019.

Filed Date: 3/8/19.

Accession Number: 20190308–5182.

Comments Due: 5 p.m. ET 3/29/19.

Docket Numbers: ER19–1224–000.

Applicants: Midcontinent Independent System Operator, Inc., AEP Indiana Michigan Transmission Company.

Description: § 205(d) Rate Filing: 2019–03–08_Revisions to Schedules 7, 8, and 9 to add AEP Indiana Michigan to be effective 6/1/2019.

Filed Date: 3/8/19.

Accession Number: 20190308–5187.

Comments Due: 5 p.m. ET 3/29/19.

Docket Numbers: ER19–1225–000.

Applicants: Midcontinent Independent System Operator, Inc.

Description: § 205(d) Rate Filing: 2019–03–08_SA 3259 Big Rivers Electric Corp.—OSER LLC GIA (J762) to be effective 2/22/2019.

Filed Date: 3/8/19.

Accession Number: 20190308–5192.

Comments Due: 5 p.m. ET 3/29/19.

Docket Numbers: ER19–1226–000.

Applicants: Southern California Edison Company.

Description: § 205(d) Rate Filing: SCE?s Revision to Formula Rate Tariff Authorized PBOPs Expense Amount to be effective 1/1/2019.

Filed Date: 3/8/19.

Accession Number: 20190308–5194.

Comments Due: 5 p.m. ET 3/29/19.

Docket Numbers: ER19–1227–000.

Applicants: Monongahela Power Company, PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Mon Power submits Interconnection Agreement No. 5267 (IA) to be effective 4/30/2019.

Filed Date: 3/8/19.

Accession Number: 20190308–5196.

Comments Due: 5 p.m. ET 3/29/19.

Docket Numbers: ER19–1228–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Original WMPA SA No. 5313; Queue No. AC2–101 to be effective 2/7/2019.

Filed Date: 3/8/19.

Accession Number: 20190308–5195.

Comments Due: 5 p.m. ET 3/29/19.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: March 8, 2019.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2019–04844 Filed 3–14–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL19–44–000]

Tucson Electric Power Company, UNS Electric, Inc., UniSource Energy Development Company; Notice of Institution of Section 206 Proceeding and Refund Effective Date

On March 8, 2019, the Commission issued an order in Docket No. EL19–44–000, pursuant to section 206 of the Federal Power Act (FPA), 16 U.S.C. 824e (2012), instituting an investigation into whether above-captioned entities' market-based rate authority in the Tucson Electric Power Company balancing authority area is just and reasonable. *Tucson Electric Power Company, et al.,* 166 FERC ¶ 61,175 (2019).

The refund effective date in Docket No. EL19–44–000, established pursuant to section 206(b) of the FPA, will be the date of publication of this notice in the **Federal Register**.

Any interested person desiring to be heard in Docket No. EL19–44–000 must file a notice of intervention or motion to intervene, as appropriate, with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rule 214 of the Commission's Rules of Practice and Procedure, 18 CFR 385.214 (2018), within 21 days of the date of issuance of the order.

Dated: March 8, 2019.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2019–04847 Filed 3–14–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER19–1215–000]

Cricket Valley Energy Center, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced Cricket Valley Energy Center, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is April 1, 2019.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for electronic review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the website that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: March 11, 2019.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2019–04845 Filed 3–14–19; 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: PR19–48–000.
Applicants: Kinder Morgan Keystone Gas Storage LLC.
Description: Tariff filing per 284.123(b), (e)+(g): Operating Statement Update (Payments and Loaning Overrun Rate) to be effective 5/6/2019.
Filed Date: 3/6/19.
Accession Number: 201903065192.
Comments Due: 5 p.m. ET 3/27/19.
284.123(g) Protests Due: 5 p.m. ET 5/6/19.

Docket Number: PR19–49–000.
Applicants: Columbia Gas of Ohio, Inc.
Description: Tariff filing per 284.123(b), (e)/: COH Rates effective March 1 2019 to be effective 3/1/2019.
Filed Date: 3/7/19.
Accession Number: 201903075059.
Comments/Protests Due: 5 p.m. ET 3/28/19.

Docket Number: PR19–50–000.
Applicants: Banquete Hub LLC.
Description: Tariff filing per 284.123(b), (e)/: Revised Compliance Filing SOC for Banquete Hub LLC to be effective 9/19/2018.
Filed Date: 3/7/19.
Accession Number: 201903075078.
Comments/Protests Due: 5 p.m. ET 3/28/19.

Docket Numbers: RP18–536–001.
Applicants: American Midstream (Midla), LLC.
Description: Report Filing: Annual Unaccounted for Gas Retention Percentage Filing.
Filed Date: 3/1/19.
Accession Number: 20190301–5022.
Comments Due: 5 p.m. ET 3/15/19.

Docket Numbers: RP19–813–000.
Applicants: Midcontinent Express Pipeline LLC.
Description: Compliance filing Annual Report of Operational Purchases and Sales 2019.
Filed Date: 3/7/19.
Accession Number: 20190307–5030.
Comments Due: 5 p.m. ET 3/19/19.

Docket Numbers: RP19–814–000.
Applicants: Millennium Pipeline Company, LLC.
Description: § 4(d) Rate Filing: Negotiated Rate Svc Agmts—ESU to be effective 3/11/2019.
Filed Date: 3/7/19.
Accession Number: 20190307–5123.
Comments Due: 5 p.m. ET 3/19/19.

Docket Numbers: RP19–815–000.
Applicants: Nautilus Pipeline Company, L.L.C.
Description: § 4(d) Rate Filing: Nautilus—Processing tariff changes to be effective 4/8/2019.
Filed Date: 3/8/19.
Accession Number: 20190308–5064.
Comments Due: 5 p.m. ET 3/20/19.

Docket Numbers: RP19–816–000.
Applicants: Portland Natural Gas Transmission System.
Description: § 4(d) Rate Filing: Bay State Neg Rate Amendment to be effective 3/10/2019.
Filed Date: 3/8/19.
Accession Number: 20190308–5178.
Comments Due: 5 p.m. ET 3/20/19.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: March 11, 2019.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2019–04841 Filed 3–14–19; 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: EG19–65–000.
Applicants: Sage Solar I LLC.
Description: Self-Certification of EWG Status of Sage Solar I LLC.
Filed Date: 3/11/19.
Accession Number: 20190311–5162.
Comments Due: 5 p.m. ET 4/1/19.

Docket Numbers: EG19–66–000.
Applicants: Sage Solar II LLC.
Description: Self-Certification of EWG Status of Sage Solar II LLC.
Filed Date: 3/11/19.
Accession Number: 20190311–5170.
Comments Due: 5 p.m. ET 4/1/19.

Docket Numbers: EG19–67–000.
Applicants: Sage Solar III LLC.
Description: Self-Certification of EWG Status of Sage Solar III LLC.
Filed Date: 3/11/19.
Accession Number: 20190311–5178.
Comments Due: 5 p.m. ET 4/1/19.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER13–738–006; ER11–3097–010; ER10–1186–009 ; ER10–1329–009.
Applicants: DTE Electric Company, DTE Energy Trading, Inc., DTE Energy Supply, Inc., St. Paul Cogeneration, LLC.
Description: Supplement to February 13, 2019 Notice of Non-Material Change in Status of the DTE MBR Entities.
Filed Date: 3/8/19.
Accession Number: 20190308–5255.
Comments Due: 5 p.m. ET 3/29/19.

Docket Number: ER19–1229–000.
Applicants: Midcontinent Independent System Operator, Inc., GridLiance Heartland LLC.
Description: § 205(d) Rate Filing: 2019–03–08_Revisions to add GridLiance to Ameren-PPI JPZA & Schs 7,8,9 to be effective 9/1/2019.
Filed Date: 3/8/19.
Accession Number: 20190308–5204.
Comments Due: 5 p.m. ET 3/29/19.

Docket Numbers: ER19–1230–000.
Applicants: TRS Fuel Cell, LLC.
Description: Baseline eTariff Filing: Baseline New to be effective 5/8/2019.
Filed Date: 3/8/19.
Accession Number: 20190308–5216.
Comments Due: 5 p.m. ET 3/29/19.

Docket Numbers: ER19–1231–000.
Applicants: Midcontinent Independent System Operator, Inc., GridLiance Heartland LLC.
Description: § 205(d) Rate Filing: 2019–03–08_Revisions to Schedules 7, 8, and 9 to add GridLiance Heartland to be effective 9/1/2019.
Filed Date: 3/8/19.
Accession Number: 20190308–5222.
Comments Due: 5 p.m. ET 3/29/19.

Docket Numbers: ER19–1232–000.
Applicants: Rochester Gas and Electric Corporation.
Description: § 205(d) Rate Filing: Amendment to Borderline Service Agreement to be effective 2/9/2019.
Filed Date: 3/8/19.
Accession Number: 20190308–5241.
Comments Due: 5 p.m. ET 3/29/19.

Docket Numbers: ER19–1233–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: § 205(d) Rate Filing: 2019–03–11_SA 3261 MidAmerican—Bridges Wind Energy LLC GIA (J528) to be effective 2/25/2019.
Filed Date: 3/11/19.
Accession Number: 20190311–5040.
Comments Due: 5 p.m. ET 4/1/19.

Docket Numbers: ER19–1234–000.
Applicants: Alabama Power Company.
Description: § 205(d) Rate Filing: Wilsonville Solar LGIA Filing to be effective 2/27/2019.
Filed Date: 3/11/19.
Accession Number: 20190311–5043.
Comments Due: 5 p.m. ET 4/1/19.

Docket Numbers: ER19–1235–000.
Applicants: Alabama Power Company.
Description: § 205(d) Rate Filing: Iron City Solar LGIA Filing to be effective 2/27/2019.
Filed Date: 3/11/19.
Accession Number: 20190311–5051.
Comments Due: 5 p.m. ET 4/1/19.

Docket Numbers: ER19–1238–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: § 205(d) Rate Filing: 2019–03–11_SA 3260 MidAmerican—Holliday Creek Solar GIA (J524) to be effective 2/25/2019.
Filed Date: 3/11/19.
Accession Number: 20190311–5108.
Comments Due: 5 p.m. ET 4/1/19.

Docket Number: ER19–1239–000.
Applicants: PJM Interconnection, L.L.C.
Description: § 205(d) Rate Filing: First Revised ISA, SA No. 5098; Queue No. AB1–173/AB1–173A/AB2–031 to be effective 2/8/2019.
Filed Date: 3/11/19.
Accession Number: 20190311–5179.
Comments Due: 5 p.m. ET 4/1/19.

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: March 11, 2019.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2019–04843 Filed 3–14–19; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OAR–2011–0135; FRL—9981–94–OEI]

Information Collection Request Submitted to OMB for Review and Approval; Comment Request; Sulfur Content of Motor Vehicle Gasoline, Gasoline Additives, Denatured Fuel Ethanol and Other Oxygenates, Certified Ethanol Denaturant, and Blender-Grade Pentane (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) is planning to submit an information collection request (ICR), Sulfur Content of Motor Vehicle Gasoline, Gasoline Additives, Denatured Fuel Ethanol and Other Oxygenates, Certified Ethanol Denaturant, and Blender-Grade Pentane (EPA ICR Number 1907.10, OMB Control Number 2060–0437) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act (PRA). This is a proposed reinstatement of the ICR, which was approved through May 31, 2018. Public comments were previously requested via the **Federal Register** on April 10, 2018 during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden and cost to the public. An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

DATES: Comments must be submitted on or before April 15, 2019.

ADDRESSES: Submit your comments, referencing Docket ID No. EPA–HQ–OAR–2011–0135, online using

www.regulations.gov (our preferred method), or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW, Washington, DC 20460.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: Thomas J. Boylan, Fuels Compliance Policy Center, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, 6405A, Washington, DC 20460; telephone number: 202–564–1075; fax number: 202–565–2085; email address: *boylan.thomas@epa.gov.*

SUPPLEMENTARY INFORMATION: Supporting documents, which explain in detail the information that the EPA will be collecting, are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW, Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit *http://www.epa.gov/dockets.*

Abstract: The requirements covered under this ICR are included in the Tier 3 Final Rule (79 FR 23414, April 28, 2014) and corresponding regulations at 40 CFR subparts H and O. The scope of the recordkeeping and reporting requirements for each party in the gasoline, gasoline additive, oxygenate, certified ethanol denaturant, and blender-grade pentane distribution systems, and therefore the cost to that party, reflects the party's opportunity to create, control or alter the product's sulfur content. As a result, petroleum refiners/importers, gasoline additive producers/importers, oxygenate producers/importers, certified ethanol denaturant producers/importers, and blender-grade pentane producers and importers have more significant requirements, which are necessary both for their own tracking and that of downstream parties, and for EPA enforcement. The Tier 3 program contains recordkeeping and reporting requirements that apply to gasoline additive manufacturers, oxygenate producers/importers, blender-grade pentane producers/importers, and producers/importers of certified ethanol denaturants that are used to produce denatured fuel ethanol. In large part these requirements are consistent with common business practices.

Form Numbers:

OMB Control No.	EPA Form ID	EPA Form No.
2060–0437	GSF0302	5900–312
2060–0437	GSF0402	5900–321
2060–0437	RFG1800	5900–345
2060–0437	RFG1900	5900–346
2060–0437	RFG2600	5900–347

Respondents/affected entities: Gasoline Refiners/Importers, Oxygenate Producers, Oxygenate Blenders, Gasoline Additive Manufacturers, Certified Ethanol Denaturant Producers, Butane and Pentane Manufacturers.

Respondent's obligation to respond: Mandatory.

Estimated number of respondents: 3,953 (total).

Frequency of response: Annually, monthly, and on occasion.

Total estimated burden: 55,656 hours (per year). Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: $4,354,200 (per year), includes no annualized capital or operation & maintenance costs.

Changes in Estimates: There is an increase in responses due to a more comprehensive understanding of the scale of the oxygenate production and importation industry. Despite this growth in responses, total burden hours decreased due to Agency experience in implementing the Tier 3 gasoline sulfur program.

Courtney Kerwin,

Director, Regulatory Support Division.

[FR Doc. 2019–04795 Filed 3–14–19; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OECA–2014–0102; FRL–9990–82–OEI]

Information Collection Request Submitted to OMB for Review and Approval; Comment Request; NSPS for Oil and Natural Gas Production and Natural Gas Transmission and Distribution (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) has submitted an information collection request (ICR), NSPS for Oil and Natural Gas Production and Natural Gas Transmission and Distribution (EPA ICR Number 2437.04, OMB Control Number 2060–0673), to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act. This is a proposed extension of the ICR, which is currently approved through March 31, 2019. Public comments were previously requested, via the **Federal Register**, on May 30, 2018 during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden and cost to the public. An agency may neither conduct nor sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

DATES: Additional comments may be submitted on or before April 15, 2019.

ADDRESSES: Submit your comments, referencing Docket ID Number EPA–HQ–OECA–2014–0102, to: (1) EPA online using *www.regulations.gov* (our preferred method), or by email to *docket.oeca@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW, Washington, DC 20460; and (2) OMB via email to *oira_submission@omb.eop.gov.* Address comments to OMB Desk Officer for EPA.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI), or other information whose disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: Patrick Yellin, Monitoring, Assistance, and Media Programs Division, Office of Compliance, Mail Code 2227A, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone number: (202) 564–2970; fax number: (202) 564–0050; email address: *yellin.patrick@epa.gov.*

SUPPLEMENTARY INFORMATION: Supporting documents, which explain in detail the information that the EPA will be collecting, are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov,* or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW, Washington, DC. The telephone number for the Docket Center is (202) 566–1744. For additional information about EPA's public docket, visit: *www.epa.gov/dockets.*

Abstract: The New Source Performance Standards (NSPS) for Oil and Natural Gas Production and Natural Gas Transmission and Distribution (40 CFR part 60, subpart OOOO) apply to oil and natural gas facilities that commence construction, modification or reconstruction after August 23, 2011 and on or before September 19, 2015, that are involved in the extraction and production of oil and natural gas, as well as the processing, transmission, and distribution of natural gas. The June 2016 final rule established a new subpart (40 CFR 60, subpart OOOOa) to set new standards for emissions of GHGs and VOCs for affected facilities in the crude oil and natural gas source category that commence construction, modification, or reconstruction after September 18, 2015. These amendments also included revisions to improve implementation of the NSPS subpart OOOO to address issues raised in administrative reconsideration petitions submitted on both the August 16, 2012 NSPS and the September 13, 2013 amendments. These implementation improvements did not change the requirements for operations and equipment covered by the current standards at subpart OOOO. The information collection requirements of the NSPS (40 CFR 60, subpart OOOOa) and associated burden are addressed in EPA ICR Number 2523.02. In general, all NSPS standards require initial notifications, performance tests, and periodic reports by the owners/operators of the affected facilities. They are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. These notifications, reports, and records are essential in determining compliance with 40 CFR part 60, subpart OOOO.

Form Numbers: None.

Respondents/affected entities: Oil and natural gas production and natural gas transmission and distribution facilities.

Respondent's obligation to respond: Mandatory (40 CFR part 60, subpart OOOO).

Estimated number of respondents: 532 (total).

Frequency of response: Semiannually and annually.

Total estimated burden: 69,300 hours (per year). Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: $9,110,000 (per year), which includes $1,220,000 in annualized capital/startup and/or operation & maintenance costs.

Changes in the Estimates: There is a decrease in the total estimated respondent burden and total annual O&M as currently identified in the OMB Inventory of Approved Burdens. The burden decrease occurred because the standard has been in effect for more than three years and the requirements are different during initial compliance (new facilities) as compared to on-going compliance (existing facilities). Additionally, the adjustment decrease in burden is due to a decrease in the number of sources subject to 40 CFR 60, subpart OOOO. Amendments to Subpart OOOO published on June 3, 2016 (81 FR 35824) established new standards for affected facilities in the crude oil and natural gas source category that commence construction, modification, or reconstruction after September 18, 2015. Facilities with new affected sources that would have previously met the requirements for subpart OOOO must now meet the requirements of 40 CFR 60, subpart OOOOa. The number of existing respondents that are subject to subpart OOOO is assumed to decrease over time as sources are either modified (and therefore subject to Subpart OOOOa) or retired. This ICR reflects the on-going burden and costs for existing facilities.

Courtney Kerwin,

Director, Regulatory Support Division.

[FR Doc. 2019–04796 Filed 3–14–19; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–ORD–2014–0313; FRL–9990–88–ORD]

Availability of the Systematic Review Protocol for the Hexavalent Chromium (Cr(VI)) Integrated Risk Information System (IRIS) Assessment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; request for public comment.

SUMMARY: The Environmental Protection Agency (EPA) is announcing a 45-day public comment period associated with the release of the Systematic Review Protocol for the Hexavalent Chromium (Cr(VI))] IRIS Assessment. This document communicates the rationale for conducting the assessment of Cr(VI), describes screening criteria to identify relevant literature, outlines the approach for evaluating study quality, and describes the process of evidence synthesis/integration and dose-response methods. The protocol includes the list of studies currently considered in the assessment. EPA is releasing this protocol for public comment at least 30 days in advance of a public science webinar planned on April 24, 2019.

DATES: The 45-day public comment period begins March 15, 2019 and ends April 29, 2019. Comments must be received on or before April 29, 2019.

ADDRESSES: The Systematic Review Protocol for Cr(VI) will be available via the internet on the IRIS website at *https://cfpub.epa.gov/ncea/iris2/chemicalLanding.cfm?substance_nmbr=144* and in the public docket at *https://www.regulations.gov,* Docket ID: EPA–HQ–ORD–2014–0313.

FOR FURTHER INFORMATION CONTACT: For information on the docket, contact the ORD Docket at the EPA Headquarters Docket Center; telephone: 202–566–1752; facsimile: 202–566–9744; or email: *Docket_ORD@epa.gov.*

For technical information on the protocol, contact Dr. James Avery, NCEA; telephone: 202–564–1494; or email: *avery.james@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Information on the IRIS Program and Systematic Review Protocols

EPA's IRIS Program is a human health assessment program that evaluates quantitative and qualitative risk information on effects that may result from exposure to chemicals found in the environment. Through the IRIS Program, EPA provides the highest quality science-based human health assessments to support the Agency's regulatory activities and decisions to protect public health.

As part of developing a draft IRIS assessment, EPA presents a methods document, referred to as the protocol, for conducting a chemical-specific systematic review of the available scientific literature. Protocols include strategies for literature searches, criteria for study inclusion or exclusion, considerations for evaluating study methods, information management for extracting data, approaches for synthesis within and across lines of evidence, and methods for derivation of toxicity values. The protocol serves to inform the subsequent development of the draft assessment and is made available to the public. EPA may update the protocol based on the evaluation of the literature and any updates will be posted to the docket and on the IRIS website. In accordance with the most current systematic review practices of the IRIS Program, EPA is releasing the Cr(VI) protocol to provide similar public engagement steps as other IRIS assessments that have started more recently.

II. Public Webinar Information

To allow for public input, EPA is convening a public webinar to discuss the Systematic Review Protocol on April 24, 2019. Specific teleconference and webinar information regarding this public meeting will be provided through the IRIS website (*https://www.epa.gov/iris*) and via EPA's Human Health Risk Assessment (HHRA) and IRIS listservs. To register for the HHRA or IRIS listserv, visit the IRIS website (*https://www.epa.gov/iris*) or visit *https://www.epa.gov/iris/forms/staying-connected-integrated-risk-information-system#connect.*

III. How To Submit Technical Comments to the Docket at *https://www.regulations.gov*

Submit your comments, identified by Docket ID No. EPA–HQ–ORD–2014–0313 for Cr(VI), by one of the following methods:

- *https://www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *Email: Docket_ORD@epa.gov.*
- *Fax:* 202–566–9744.
- *Mail:* U.S. Environmental Protection Agency, EPA Docket Center (ORD Docket), Mail Code: 28221T, 1200 Pennsylvania Avenue NW, Washington, DC 20460. The phone number is 202–566–1752.
- *Hand Delivery:* The ORD Docket is located in the EPA Headquarters Docket Center, EPA West Building, Room 3334, 1301 Constitution Avenue NW, Washington, DC 20004.

The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is 202–566–1744. Deliveries are only accepted during the docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information. If you provide comments by mail or hand delivery, please submit three copies of the comments. For attachments, provide an index, number pages consecutively with the comments, and submit an unbound original and three copies.

Instructions: Direct your comments to EPA–HQ–ORD–2014–0313 for Cr(VI). Please ensure that your comments are submitted within the specified comment period. Comments received after the closing date will be marked ''late,'' and may only be considered if time permits. It is EPA's policy to include all comments it receives in the public docket without change and to make the comments available online at *https://www.regulations.gov,* including any personal information provided, unless a comment includes information claimed to be Confidential Business Information (CBI) or other information for which disclosure is restricted by statute. Do not submit information through *https://www.regulations.gov* or email that you consider to be CBI or otherwise protected. The *https://www.regulations.gov* website is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *https://www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at *https://www.epa.gov/dockets.*

Docket: Documents in the docket are listed in the *https://www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other materials, such as copyrighted material, are publicly available only in hard copy. Publicly available docket materials are available either electronically in *https://www.regulations.gov* or hard copy at the ORD Docket in the EPA Headquarters Docket Center.

Dated: March 6, 2019.

Tina Bahadori,

Director, National Center for Environmental Assessment.

[FR Doc. 2019–04904 Filed 3–14–19; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OECA–2011–0271; FRL—9990–11–OEI]

Information Collection Request Submitted to OMB for Review and Approval; Comment Request; NESHAP for Integrated Iron and Steel Manufacturing Facilities (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) has submitted an information collection request (ICR), NESHAP for Integrated Iron and Steel Manufacturing Facilities (EPA ICR Number 2003.07, OMB Control Number 2060–0517), to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act. This is a proposed extension of the ICR, which is currently approved through March 31, 2019. Public comments were previously requested, via the **Federal Register**, on May 30, 2018 during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden and cost to the public. An agency may neither conduct nor sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

DATES: Additional comments may be submitted on or before April 15, 2019.

ADDRESSES: Submit your comments, referencing Docket ID Number EPA–HQ–OECA–2011–0271, to: (1) EPA online using *www.regulations.gov* (our preferred method), or by email to *docket.oeca@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW, Washington, DC 20460; and (2) OMB via email to *oira_submission@omb.eop.gov.* Address comments to OMB Desk Officer for EPA.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI), or other information whose disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: Patrick Yellin, Monitoring, Assistance, and Media Programs Division, Office of Compliance, Mail Code 2227A,

Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone number: (202) 564–2970; fax number: (202) 564–0050; email address: *yellin.patrick@epa.gov.*

SUPPLEMENTARY INFORMATION: Supporting documents, which explain in detail the information that the EPA will be collecting, are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW, Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit: *http://www.epa.gov/dockets.*

Abstract: The National Emission Standards for Hazardous Air Pollutants (NESHAP) for Integrated Iron and Steel Manufacturing Facilities (40 CFR part 63, subpart FFFFF) apply to new and existing sinter plants, blast furnaces, and basic oxygen process furnace shops at integrated iron and steel manufacturing facilities that are major sources of hazardous air pollutants (HAPs) or are co-located at major sources. New facilities include those that commenced either construction or reconstruction after the date of proposal. In general, all NESHAP standards require initial notifications, performance tests, and periodic reports by the owners/operators of the affected facilities. They are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. These notifications, reports, and records are essential in determining compliance, and are required of all affected facilities subject to NESHAP. This information is being collected to assure compliance with 40 CFR part 63, subpart FFFFF.

Form Numbers: None.

Respondents/affected entities: Owners or operators of integrated iron and steel manufacturing facilities.

Respondent's obligation to respond: Mandatory (40 CFR 63, Subpart FFFFF).

Estimated number of respondents: 12 (total).

Frequency of response: Initially, occasionally, and semiannually.

Total estimated burden: 11,800 hours (per year). Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: $1,390,000 (per year), which includes $52,700 in annualized capital/startup and/or operation & maintenance costs.

Changes in the Estimates: There is a decrease in burden from the most-recently approved ICR. The decrease in burden is due to a decrease in the number of respondents due to more accurate estimates of existing and anticipated new sources. The decrease in the number of sources also results in a decrease in the operation and maintenance costs. The overall result is a decrease in burden hours and costs.

Courtney Kerwin,

Director, Regulatory Support Division.

[FR Doc. 2019–04791 Filed 3–14–19; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OW–2008–0150; FRL–9989–51–OEI]

Information Collection Request Submitted to OMB for Review and Approval; Comment Request; Establishing No-Discharge Zones (NDZs) Under Clean Water Act Section 312 (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) has submitted an information collection request (ICR), Establishing No-Discharge Zones (NDZs) under Clean Water Act § 312 (EPA ICR No. 1791.08, OMB Control No. 2040–0187), to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act. This action is a proposed extension of the ICR, which is currently approved through March 31, 2019. Public comments were previously requested via the **Federal Register** on September 11, 2018 during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden and cost to the public. An agency may not conduct, or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

DATES: Additional comments may be submitted on or before April 15, 2019.

ADDRESSES: Submit your comments, referencing Docket ID Number EPA–HQ–OW–2008–0150, to (1) EPA online using *www.regulations.gov* (our preferred method), by email to *OW-Docket@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW, Washington, DC 20460, and (2) OMB via email to *oira_submission@omb.eop.gov.* Address comments to OMB Desk Officer for EPA.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: Virginia Fox-Norse, Oceans, Wetlands and Communities Division, Office of Wetlands, Oceans and Watersheds, (4504T), Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone number: 202–566–1266; fax number: 202–566–1337; email address: *fox-norse.virginia@epa.gov.*

SUPPLEMENTARY INFORMATION: Supporting documents, which explain in detail the information that the EPA will be collecting, are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW, Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit *http://www.epa.gov/dockets.*

Abstract: (A) *Sewage No-Discharge Zones:* CWA section 312(f) and the implementing regulations in 40 CFR 140 provide that information must be submitted to the EPA to establish a no-discharge zone (NDZ) for vessel sewage in state waters. No-discharge zones can be established to provide greater environmental protection of specified state waters from treated and untreated vessel sewage. This ICR addresses the information requirements associated with the establishment of NDZs for vessel sewage. The information collection activities discussed in this ICR do not require the submission of any confidential information.

(B) *Uniform National Discharge Standards (UNDS) No-Discharge Zones and Discharge Determination or Standard Review:* CWA section 312(n)(7) and the implementing regulations in 40 CFR 1700 provide that information should be submitted to the EPA to establish a no-discharge zone in state waters for a particular discharge from a vessel of the Armed Forces. In addition, CWA section 312(n)(5) provides that that the Governor of any state may petition the EPA and the Department of Defense (DoD) to review any discharge determination or standard

promulgated under CWA section 312 for vessels of the Armed forces if there is significant new information that could reasonably result in a change to the discharge determination or standard. This ICR addresses the information requirements associated with the establishment of an UNDS NDZ for a particular discharge from a vessel of the Armed Forces in addition to the information requirements associated with a request to the EPA and DoD to review a discharge determination or standard. UNDS NDZs for a particular discharge from a vessel of the Armed Forces cannot be requested or established until after the EPA and DoD promulgate vessel discharge performance standards for marine pollution control devices for that particular discharge and DoD promulgates the corresponding regulations governing the design, construction, installation and use of marine pollution control devices for that particular discharge. The information collection activities discussed in this ICR do not require the submission of any confidential information.

Form Numbers: None.

Respondents/affected entities: States.

Respondent's obligation to respond: The responses to this collection of information are required for a state to obtain a sewage NDZ (CWA section 312(f)) and required to obtain an UNDS NDZ or a review of an UNDS discharge determination or standard (CWA section 312(n)).

*Estimated number of respondents:*13 (total).

Frequency of response: One time.

Total estimated burden: 914 hours (per year). Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: $12,501 (per year), includes $848 annualized capital or operation & maintenance costs.

Changes in the Estimates: There is a decrease of 169 hours in the total estimated respondent burden compared with the ICR currently approved by OMB. This estimated decrease is attributable to a downward adjustment in the estimated number of anticipated total actions during the upcoming 3-year period.

Courtney Kerwin,

Director, Regulatory Support Division.

[FR Doc. 2019–04797 Filed 3–14–19; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–9043–8]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information 202–564–5632 or *https://www.epa.gov/nepa/.*

Weekly receipt of Environmental Impact Statements

Filed 03/04/2019 Through 03/08/2019

Pursuant to 40 CFR 1506.9.

Notice

Section 309(a) of the Clean Air Act requires that EPA make public its comments on EISs issued by other Federal agencies. EPA's comment letters on EISs are available at: *https://cdxnodengn.epa.gov/cdx-enepa-public/action/eis/search.*

EIS No. 20190023, Final, OSM, NM, San Juan Mine Deep Lease Extension Mining Plan Modification, Review Period Ends: 04/15/2019, Contact: Gretchen Pinkham 303–293–5088

EIS No. 20190024, Final, BR, WA, Kachess Drought Relief Pumping Plant and Keechelus Reservoir-to-Kachess Reservoir Conveyance Projects Final Environmental Impact Statement, Kittitas and Yakima Counties, Washington, Review Period Ends: 04/15/2019, Contact: Ms. Candace McKinley 509–573–8020

EIS No. 20190025, Draft, USFS, NM, South Sacramento Restoration Project, Comment Period Ends: 04/29/2019, Contact: Peggy Luensmann 575–434–7200

EIS No. 20190026, Final, FHWA, ND, U.S. Highway 85—I–94 Interchange to Watford City Bypass, Contact: Kevin Brodie 701–221–9467 Under 23 U.S.C. 139(n)(2), FHWA has issued a single document that consists of a final environmental impact statement and record of decision. Therefore, the 30-day wait/review period under NEPA does not apply to this action.

EIS No. 20190027, Final, USFWS, CA, South Farallon Islands Invasive House Mouse Eradication Project; Farallon Islands National Wildlife Refuge, California, Review Period Ends: 04/15/2019, Contact: Gerry McChesney 510–792–0222, ext. 222

EIS No. 20190028, Final, USFS, ID, Boise & Sawtooth Forest-wide Invasive Plant Species Treatments, Review Period Ends: 04/29/2019, Contact: Michael Haney 208–423–7530

EIS No. 20190029, Draft, GSA, AZ, Expansion and Modernization of the San Luis I Land Port of Entry, Comment Period Ends: 04/29/2019, Contact: Osmahn Kadri 415–522–3617

EIS No. 20190030, Draft, BLM, AK, Bering Sea—Western Interior Resource Management Plan and Environmental Impact Statement, Comment Period Ends: 06/13/2019, Contact: Jorjena Barringer 907–267–1246

EIS No. 20190031, Final Supplement, OSM, CO, ADOPTION—Federal Coal Lease Modifications COC–1362 and COC–67232, Contact: Gretchen Pinkham 303–293–5088 The Office of Surface Mining (OSM) has adopted the U.S. Forest Service's Final Supplemental EIS No. 20170173, filed 09/01/2017 with the Environmental Protection Agency. The OSM was a cooperating agency on this project. Therefore, recirculation of the document is not necessary under Section 1506.3(c) of the CEQ regulations.

EIS No. 20190032, Draft, BLM, NV, Burning Man Event Special Recreation Permit Draft Environmental Impact Statement, Comment Period Ends: 04/29/2019, Contact: Mark Hall 775–623–1529

Dated: March 11, 2019.

Robert Tomiak,

Director, Office of Federal Activities.

[FR Doc. 2019–04767 Filed 3–14–19; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL DEPOSIT INSURANCE CORPORATION

FDIC Advisory Committee on Community Banking; Notice of Meeting

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice of open meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, notice is hereby given of a meeting of the FDIC Advisory Committee on Community Banking, which will be held in Washington, DC. The Advisory Committee will provide advice and recommendations on a broad range of policy issues that have particular impact on small community banks throughout the United States and the local communities they serve, with a focus on rural areas.

DATES: Thursday, March 28, 2019, from 9:00 a.m. to 3:00 p.m.

ADDRESSES: The meeting will be held in the FDIC Board Room on the sixth floor of the FDIC Building located at 550 17th Street NW, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Requests for further information

concerning the meeting may be directed to Mr. Robert E. Feldman, Committee Management Officer of the FDIC, at (202) 898–7043.

SUPPLEMENTARY INFORMATION:

Agenda: The agenda will include a discussion of current issues affecting community banking. The agenda is subject to change. Any changes to the agenda will be announced at the beginning of the meeting.

Type of Meeting: The meeting will be open to the public, limited only by the space available on a first-come, first-served basis. For security reasons, members of the public will be subject to security screening procedures and must present a valid photo identification to enter the building. The FDIC will provide attendees with auxiliary aids (*e.g.,* sign language interpretation) required for this meeting. Those attendees needing such assistance should call (703) 562–6067 (Voice or TTY) at least two days before the meeting to make necessary arrangements. Written statements may be filed with the committee before or after the meeting. This meeting of the Advisory Committee on Community Banking will be Webcast live via the internet *http://fdic.windrosemedia.com.* Questions or troubleshooting help can be found at the same link. For optimal viewing, a high-speed internet connection is recommended. Further, a video of the meeting will be available on-demand approximately two weeks after the event.

Dated at Washington, DC, on March 8, 2019.

Federal Deposit Insurance Corporation.

Valerie Best,

Assistant Executive Secretary.

[FR Doc. 2019–04692 Filed 3–14–19; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Information Collection Activities: Proposed Collection Renewal; Comment Request (OMB No. 3064–0190)

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 (PRA), invites the general public and other Federal agencies to take this opportunity to comment on the renewal of the existing information collection described below.

DATES: Comments must be submitted on or before May 14, 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:* Manny Cabeza (202–898–3767), Counsel, MB–3007, 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: Manny Cabeza, Counsel, 202–898–3767, *mcabeza@fdic.gov,* MB–3007, Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, DC 20429.

SUPPLEMENTARY INFORMATION:

Proposal To Renew the Following Currently Approved Collection of Information

1. *Title:* Interagency Complaint Form.

OMB Number: 3064–0190.

Form Number: FDIC 3064–0190.

Affected Public: Individuals, financial institutions and other private sector entities.

Burden Estimate:

SUMMARY OF ANNUAL BURDEN

Information collection description	Type of burden	Obligation to respond	Estimated number of respondents	Estimated frequency of responses	Estimated time per response (minutes)	Estimated annual burden (hours)
Interagency Appraisal Complaint Form	Reporting	Voluntary	40	On Occasion	30	20
Total Estimated Annual Burden	.....	.....	.....	.....	.....	20

General Description of Collection

As required by the Dodd-Frank Act, the Appraisal Subcommittee of the Federal Financial Institutions Examination Council (the ''ASC'') established a hotline to refer complaints to appropriate state and Federal regulators. For those instances where the ASC determines the FDIC, OCC, FRB, or NCUA is the appropriate regulator, the agencies developed the Interagency Appraisal Complaint Form as a means to efficiently collect necessary information. The Interagency Appraisal Complaint Form is designed to collect information necessary for one or more agencies to take further action on a complaint from an appraiser, other individual, financial institution, or other entities. The FDIC will use the information to take further action on the complaint to the extent it relates to an issue within its jurisdiction.

There is no change in the method or substance of the collection. The overall reduction in burden hours (from 100 hours to 20 hours) is the result of a change in the agency's estimate of the number of annual responses based on a review of the actual number of complaints received over the last three years. In particular, the estimated number of respondents has decreased from 200 to 40 while the estimated time per response and the frequency of response 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 March 8, 2019.

Federal Deposit Insurance Corporation.

Valerie Best,

Assistant Executive Secretary.

[FR Doc. 2019–04693 Filed 3–14–19; 8:45 am]

BILLING CODE 6714–01–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 April 15, 2019.

A. Federal Reserve Bank of Chicago (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. *Wintrust Financial Corporation, Rosemont, Illinois;* to acquire 100 percent of the voting shares of Rush Oak Corporation and thereby indirectly acquire Oak Bank, both of Chicago Illinois.

Board of Governors of the Federal Reserve System, March 12, 2019.

Yao-Chin Chao,

Assistant Secretary of the Board.

[FR Doc. 2019–04885 Filed 3–14–19; 8:45 am]

BILLING CODE P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0027; Docket No. 2018–0003; Sequence No. 25]

Submission for OMB Review; Value Engineering Requirements

AGENCY: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice.

SUMMARY: Under the provisions of the Paperwork Reduction Act, the Regulatory Secretariat Division will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of a previously approved information collection requirement regarding value engineering requirements.

DATES: Submit comments on or before April 15, 2019.

ADDRESSES: Submit comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to: Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for GSA, Room 10236, NEOB, Washington, DC 20503. Additionally submit a copy to GSA by any of the following methods:

- *Federal eRulemaking Portal:* This website provides the ability to type short comments directly into the comment field or attach a file for lengthier comments. Go to *http://www.regulations.gov* and follow the instructions on the site.
- *Mail:* General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street NW, Washington, DC 20405. ATTN: Ms. Mandell/IC 9000–0027, Value Engineering Requirements.

Instructions: Please submit comments only and cite Information Collection 9000–0027, Value Engineering Requirements, in all correspondence related to this collection. Comments received generally will be posted without change to *http://www.regulations.gov,* including any personal and/or business confidential information provided. To confirm receipt of your comment(s), please check *www.regulations.gov,* approximately two to three days after submission to verify posting (except allow 30 days for posting of comments submitted by mail).

FOR FURTHER INFORMATION CONTACT: Marilyn E. Chambers, Procurement Analyst, Office of Governmentwide Acquisition Policy, GSA, at telephone 202–285–7380, or *marilyn.chambers@gsa.gov.*

SUPPLEMENTARY INFORMATION:

A. Purpose

Per Federal Acquisition Regulation Part 48, value engineering is the technique by which contractors (1) voluntarily suggest methods for performing more economically and share in any resulting savings, or (2) are required to establish a program to identify and submit to the Government methods for performing more economically. These recommendations are submitted to the Government as value engineering change proposals (VECP's) and they must include specific information. This information is needed to enable the Government to evaluate the VECP and, if accepted, to arrange for an equitable sharing plan.

B. Public Comment

A 60 day notice was published in the **Federal Register** at 83 FR 64128, on December 13, 2018. No comments were received.

C. Annual Reporting Burden

Value Engineering Requirements

The estimated total burden is as follows:

Respondents: 794.

Responses per Respondent: 2.

Total Annual Responses: 1,588.

Hours per Response: 15.

Total Burden Hours: 23,820.

Affected Public: Businesses or other for-profit institutions.

Frequency: On occasion.

Obtaining Copies: Requesters may obtain a copy of the information collection documents from the General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street NW, Washington, DC 20405, telephone 202–501–4755.

Please cite OMB Control No. 9000–0027, Value Engineering Requirements, in all correspondence.

Janet Fry,

Director, Federal Acquisition Policy Division, Office of Governmentwide Acquisition Policy, Office of Acquisition Policy, Office of Governmentwide Policy.

[FR Doc. 2019–04837 Filed 3–14–19; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0075; Docket No. 2018–0003; Sequence No. 12]

Submission for OMB Review; Government Property

AGENCY: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice.

SUMMARY: Under the provisions of the Paperwork Reduction Act, the Regulatory Secretariat Division will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of a previously approved information collection requirement concerning government property.

DATES: Submit comments on or before April 15, 2019.

ADDRESSES: Submit comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to: Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for GSA, Room 10236, NEOB, Washington, DC 20503. Additionally submit a copy to GSA by any of the following methods:

- *Federal eRulemaking Portal:* This website provides the ability to type short comments directly into the comment field or attach a file for lengthier comments. Go to *http://www.regulations.gov* and follow the instructions on the site.
- *Mail:* General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street NW, Washington, DC 20405. ATTN: Ms. Mandell/IC 9000–0075, Government Property.

Instructions: Please submit comments only and cite Information Collection 9000–0075, Government Property, in all correspondence related to this collection. Comments received generally will be posted without change to *http://www.regulations.gov,* including any personal and/or business confidential information provided. To confirm receipt of your comment(s), please check *www.regulations.gov,* approximately two to three days after submission to verify posting (except allow 30 days for posting of comments submitted by mail).

FOR FURTHER INFORMATION CONTACT: Ms. Camara Francis, Procurement Analyst, Office of Acquisition Policy, GSA 202–550–0935 or email *camara.francis@gsa.gov.*

SUPPLEMENTARY INFORMATION:

A. Purpose

Government property, as used in FAR Part 45, means all property owned or leased by the Government. Government property includes both Government-furnished property and contractor-acquired property. Government property includes material, equipment, special tooling, special test equipment, and real property. Government property does not include intellectual property and software.

This part prescribes policies and procedures for providing Government property to contractors; contractors' management and use of Government property; and reporting, redistributing, and disposing of contractor inventory.

This clearance covers the following requirements:

(a) FAR 52.245–1(f)(1)(ii) requires contractors to record requirements of paragraph (f)(1)(iii)(A)(1) through (5) of the clause, identify as Government owned in a manner approporiate to the type of property(*e.g.,* stamp, tag, mark, or other identification), and manage any discrepancies incident to shipment.

(b) FAR 52.245–1(f)(1)(ii)(A) requires contractors to submit report if overages, shortages, or damages and/or other discrepancies are discovered upon receipt of Government-furnished property.

(c) FAR 52.245–1(f)(1)(iii) requires contractors to create and maintain records of all Government property accountable to the contract.

(d) FAR 52.245–1(f)(1)(iv) requires contractors to periodically perform, record, and report physical inventories during contract performance, including upon completion or termination of the contract.

(e) FAR 52.245–1(f)(1)(vii)(B) requires contractors to investigate and report all incidents of Government property loss as soon as the facts become known.

(f) FAR 52.245–1(f)(1)(viii) requires contractors to promptly disclose and report Government property in its possession that is excess to contract performance.

(g) FAR 52.245–1(f)(1)(ix) requires contractors to disclose and report to the Property Administrator the need for replacement and/or capital rehabilitation.

(h) FAR 52.245–1(f)(1)(x) requires contractors to perform and report to the Property Administrator contract property closeout.

(i) FAR 52.245–1(f)(2) requires contractors to establish and maintain source data, particularly in the areas of recognition of acquisitions and dispositions of material and equipment.

(j) FAR 52.245–1(j)(2) requires contractors to submit inventory disposal schedules to the Plant Clearance Officer via the Standard Form 1428, Inventory Disposal Schedule.

(k) FAR 52.245–9(d) requires a contractor to identify the property for which rental is requested.

B. Annual Reporting Burden

Number of Respondents: 11,375.
Responses per Respondent: 1,057.
Total Responses: 12,023,375.
Average Burden Hours per Response: .3092.
Total Burden Hours: 3,717,627.

C. Public Comments

A 60-day notice was published in the **Federal Register** at 83 FR 45933 on September 11, 2018. No comments were recevied.

Obtaining Copies of Proposals: Requesters may obtain a copy of the information collection documents from the General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street NW, Washington, DC 20006, telephone 202–501–4755. Please cite OMB Control No. 9000–0075, Government Property, in all correspondence.

Dated: March 8, 2019.

Janet Fry,

Director, Federal Acquisition Policy Division, Office of Governmentwide Acquisition Policy, Office of Acquisition Policy, Office of Governmentwide Policy.

[FR Doc. 2019–04838 Filed 3–14–19; 8:45 am]

BILLING CODE 6820–EP–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)—GH19–013, Advancing Infectious Disease Detection and Response in Liberia.

Date: April 30, 2019.

Time: 9:00 a.m.–2:00 p.m., EDT.

Place: Teleconference.

Agenda: To review and evaluate grant applications.

For Further Information Contact: Hylan Shoob, Ph.D., Scientific Review Officer, Center for Global Health, CDC, 1600 Clifton Drive, Atlanta, GA 30329–4027, (404) 639–4796; *HShoob@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 Berger,

Chief Operating Officer, Centers for Disease Control and Prevention.

[FR Doc. 2019–04825 Filed 3–14–19; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Advisory Council for the Elimination of Tuberculosis (ACET)

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, the CDC announces the following meeting of the Advisory Council for the Elimination of Tuberculosis Meeting (ACET). This meeting is open to the public, limited only by the space available. The meeting room will accommodate up to 60 people. The public is also welcome to listen to the meeting by telephone, limited only by the number of ports available (100). Time will be available for public comment. The public is welcome to submit written comments in advance of the meeting. Comments should be submitted in writing by email to the contact person listed below. The deadline for receipt is Monday, April 15, 2019. Persons who desire to make an oral statement, may request it at the time of the public comment period on April 16, 2019 at 3:20 p.m. EDT.

DATES: The meeting will be held on April 16, 2019, 10:00 a.m. to 3:30 p.m., EDT.

ADDRESSES: 8 Corporate Blvd., Building 8, Conference Rooms 1A and 1B, Atlanta, Georgia 30329 and Web conference: 1–877–927–1433 and participant passcode: 12016435 and *https://adobeconnect.cdc.gov/r5p8l2tytpq/.*

FOR FURTHER INFORMATION CONTACT: Margie Scott-Cseh, Committee Management Specialist, CDC, 1600 Clifton Road NE, Mailstop: E–07, Atlanta, Georgia 30329–4018, telephone (404) 639–8317; *zkr7@cdc.gov.*

SUPPLEMENTARY INFORMATION:

Purpose: This Council advises and makes recommendations to the Secretary of Health and Human Services, the Assistant Secretary for Health, and the Director, CDC, regarding the elimination of tuberculosis. Specifically, the Council makes recommendations regarding policies, strategies, objectives, and priorities; addresses the development and application of new technologies; and reviews the extent to which progress has been made toward eliminating tuberculosis.

Matters to be considered: The agenda will include discussions on (1) Overview of the ''Digital Bridge''; (2) Overview of tuberculosis care for migrant detainees; (3) Overview of infrastructure and mechanisms to develop, update, and maintain HIV guidelines; and (4) Update from ACET workgroups. Agenda items are subject to change as priorities dictate.

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 Berger,

Chief Operating Officer, Centers for Disease Control and Prevention.

[FR Doc. 2019–04822 Filed 3–14–19; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP)

CK19–002, Quantifying Contact Rates and Mixing Patterns in Workers in Non-Healthcare Work Settings in the United States and CK19–004, Study to Assess the Risk of Blood Borne Transmission of Classic Forms of Creutzfeldt-Jakob Disease (CJD).

Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP); CK19–002, Quantifying Contact Rates and Mixing Patterns in Workers in Non-Healthcare Work Settings in the United States and CK19–004, Study to Assess the Risk of Blood Borne Transmission of Classic Forms of Creutzfeldt-Jakob Disease (CJD); May 7, 2019; 10:00 a.m.–5:00 p.m., (EDT) which was published in the **Federal Register** on December 26, 2018, Volume 83, Number 246, pages 66270.

The meeting is being amended to add CK17–005SUPP, Vector-Borne Disease Regional Centers of Excellence. The meeting is closed to the public.

Contact: Gregory Anderson, M.S., M.P.H., Scientific Review Officer, CDC, 1600 Clifton Road NE, Mailstop E60, Atlanta, Georgia 30333, (404) 718–8833, *gca5@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 Berger,

Chief Operating Officer, Centers for Disease Control and Prevention.

[FR Doc. 2019–04823 Filed 3–14–19; 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)—GH19–003, Advancing Infectious Disease Detection and Response in Senegal; GH19–006, Advancing Infectious Disease Detection and Response in Indonesia; GH19–008, Advancing Infectious Disease Detection and Response in Uganda; GH19–009, Advancing Infectious Disease Detection and Response in Vietnam; GH19–010, Advancing Disease Detection and Response in Nigeria; and GH19–015, Strengthening National Capacity for Malaria Operations Research in Malawi.

Date: April 24, 2019.

Time: 9:00 a.m.–2:00 p.m., EDT.

Place: Teleconference.

Agenda: To review and evaluate grant applications.

FOR FURTHER INFORMATION CONTACT: Hylan Shoob, Ph.D., Scientific Review Officer, Center for Global Health, CDC, 1600 Clifton Drive, Atlanta, GA 30329–4027,(404) 639–4796; *HShoob@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 Berger,

Chief Operating Officer, Centers for Disease Control and Prevention.

[FR Doc. 2019–04848 Filed 3–14–19; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Docket Number CDC–2019–0015, NIOSH–153–E]

Request for the Technical Review of 10 Draft Skin Notation Assignments and Skin Notation Profiles

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: Request for information and comment.

SUMMARY: The National Institute for Occupational Safety and Health of the Centers for Disease Control and Prevention announces the availability of 10 draft skin notation profile documents now available for public comment entitled:

Skin notation profile: Cyclohexanol
Skin notation profile: Cyclohexanone
Skin notation profile: Cyclonite
Skin notation profile: Diacetyl and 2,3-Pentanedione
Skin notation profile: Diethylenetriamine
Skin notation profile: beta-Chloroprene
Skin notation profile: Chlorodiphenyl 42% Chlorine
Skin notation profile: Chlorodiphenyl 54% Chlorine
Skin notation profile: Dioxane
Skin notation profile: 2,4-Toluene diisocyanate, 2,6-Toluene diisocyanate, and the mixture of 2,4- and 2,6-Toluene diisocyanate

To view the notice and related materials, visit *https://www.regulations.gov* and enter CDC–2019–0015 in the search field and click ''Search.''

DATES: Electronic or written comments must be received by May 14, 2019.

ADDRESSES: You may submit comments, identified by CDC–2019–0015 and docket number NIOSH–153–E, by any of the following 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.

Instructions: All information received in response to this notice must include the agency name and docket number [CDC–2019–0015; NIOSH–153–E]. All relevant comments received will be posted without change to *https://www.regulations.gov,* including any personal information provided. All electronic comments should be formatted as Microsoft Word. For access to the docket to read background documents or comments received, go to *https://www.regulations.gov.* All information received in response to this notice will also be available for public examination and copying at the NIOSH Docket Office, 1150 Tusculum Avenue, Room 155, Cincinnati, OH 45226–1998.

FOR FURTHER INFORMATION CONTACT: Naomi Hudson, NIOSH/EID, Robert A. Taft Laboratories, 1090 Tusculum Avenue, MS–C32, Cincinnati, OH 45226. Telephone: (513) 533–8388 (not a toll free number).

SUPPLEMENTARY INFORMATION: The National Institute for Occupational Safety and Health (NIOSH) of the Centers for Disease Control and Prevention (CDC) is conducting a public review of the draft skin notations and support technical documents, entitled Skin Notations Profiles, for 10 chemicals. NIOSH is requesting technical reviews of the draft Skin Notation Profiles.

Background: In 2009, NIOSH published Current Intelligence Bulletin (CIB) 61—A Strategy for Assigning New NIOSH Skin Notations [NIOSH 2009–147; *http://www.cdc.gov/niosh/docs/2009-147/pdfs/2009-147.pdf*]. The CIB presents a strategic framework that is a form of hazard identification designed to do the following:

1. Ensure that the assigned skin notations reflect the contemporary state of scientific knowledge.
2. Provide transparency behind the assignment process.
3. Communicate the hazards of chemical exposures of the skin.
4. Meet the needs of health professionals, employers, and other interested parties in protecting workers from chemical contact with the skin.

This strategy involves the assignment of multiple skin notations for distinguishing systemic (SYS), direct (DIR), and sensitizing (SEN) effects caused by exposure of skin (SK) to chemicals.

Information Needs: To facilitate the review of these documents, NIOSH requests that the following questions be taken into consideration:

1. Does this document clearly outline the systemic health hazards associated with exposures of the skin to the chemical? If not, what specific information is missing from the document?
2. If the SYS or SYS (FATAL) notations are assigned, are the rationale

and logic behind the assignment clear? If not assigned, is the logic clear why it was not (*e.g.,* insufficient data, no identified health hazard)?

3. Does this document clearly outline the direct (localized) health hazards associated with exposures of the skin to the chemical? If not, what specific information is missing from the document?

4. If the DIR, DIR (IRR), or DIR (COR) notations are assigned, are the rationale and logic behind the assignment clear? If not assigned, is the logic clear why it was not (*e.g.,* insufficient data, no identified health hazard)?

5. Does this document clearly outline the immune-mediated responses (allergic response) as health hazards associated with exposures of the skin to the chemical? If not, what specific information is missing from the document?

6. If the SEN notation is assigned, are the rationale and logic behind the assignment clear? If not assigned, is the logic clear why it was not (*e.g.,* insufficient data, no identified health hazard)?

7. If the ID (SK) or SK were assigned, are the rationale and logic outlined within the document?

8. Are the conclusions supported by the data?

9. Are the tables clear and appropriate?

10. Is the document organized appropriately? If not, what improvements are needed?

11. Are you aware of any scientific data reported in governmental publications, databases, peer-reviewed journals, or other sources that should be included within this document?

References:

Current Intelligence Bulletin 61: A Strategy for Assigning New NIOSH Skin Notations [*https://www.cdc.gov/niosh/docs/2009-147/*]

Dated: March 11, 2019.

Frank J. Hearl,

Chief of Staff, National Institute for Occupational Safety and Health, Centers for Disease Control and Prevention.

[FR Doc. 2019–04794 Filed 3–14–19; 8:45 am]

BILLING CODE 4163–19–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Board of Scientific Counselors, Office of Public Health Preparedness and Response, (BSC, OPHPR)

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, the CDC announces the following meeting for the Board of Scientific Counselors, Office of Public Health Preparedness and Response, (BSC, OPHPR). This meeting is open to the public, limited only by the space available. The meeting room accommodates up to 80 people. Public participants should pre-register for the meeting as described below.

Members of the public that wish to attend this meeting in person should pre-register by submitting the following information by email, facsimile, or phone (see Contact Person for More Information) no later than 12:00 noon (EDT) on Thursday, April 18, 2019:

- Full Name
- Organizational Affiliation
- Complete Mailing Address
- Citizenship
- Phone Number or Email Address

The public is also welcome to listen to the meeting via Adobe Connect. Pre-registration is required by clicking the links below.

WEB ID April 24, 2019 registration: https://adobeconnect.cdc.gov/epvdyo95oxsu/event/registration.html.

WEB ID April 25, 2019 registration: https://adobeconnect.cdc.gov/em35bdp1ivh9/event/registration.html.

Dial in number: 888–664–9959; Participant code: 9241417 (110 seats).

DATES: The meeting will be held on April 24 2019, 10:30 a.m. to 5:00 p.m., EDT; April 25, 2019, 8:30 a.m. to 3:00 p.m., EDT.

ADDRESSES: Centers for Disease Control and Prevention (CDC), Global Communications Center, Building 19, Auditorium B3, 1600 Clifton Road NE, Atlanta, Georgia 30329.

FOR FURTHER INFORMATION CONTACT: Dometa Ouisley, Office of Science and Public Health Practice, Centers for Disease Control and Prevention, 1600 Clifton Road NE, Mailstop D–44, Atlanta, Georgia 30329, Telephone: (404) 639–7450; Fax: (404) 471–8772; Email: *OPHPR.BSC.Questions@cdc.gov.*

SUPPLEMENTARY INFORMATION:

Purpose: This Board is charged with providing advice and guidance to the Secretary, Department of Health and Human Services (HHS), the Assistant Secretary for Health (ASH), the Director, Centers for Disease Control and Prevention (CDC), and the Director, Office of Public Health Preparedness and Response (OPHPR), concerning strategies and goals for the programs and research within OPHPR, monitoring the overall strategic direction and focus of the OPHPR Divisions and Offices, and administration and oversight of peer review for OPHPR scientific programs. For additional information about the Board, please visit: *http://www.cdc.gov/phpr/science/counselors.htm.*

Matters To Be Considered: The two day agenda will include: Day One of meeting will cover briefings and BSC deliberation on the following topics: (1) OPHPR Updates from Director, (2) OPHPR Interval Updates from Division Directors, (3) Updates on the Global Health Security Agenda, (4) Report from the Biological Agent Containment Working Group (BACWG), and (5) Update on the response to the Ebola outbreak in the Democratic Republic of Congo (DRC).

Day Two of the meeting will cover briefings and BSC deliberation on the following topics: (1) Preparedness Updates and OPHPR Discussion—Liaison Representatives, (2) CDC Public Health Law Program Preparedness and Response, (3) Updates from the OPHPR Office of Policy, Planning, and Evaluation. Agenda items are subject to change as priorities dictate.

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 Berger,

Chief Operating Officer, Centers for Disease Control and Prevention.

[FR Doc. 2019–04826 Filed 3–14–19; 8:45 am]

BILLING CODE 4163–19–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS–10630, CMS–R–263, CMS–437A and CMS–437B]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, HHS.

ACTION: Notice.

SUMMARY: The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (the PRA), federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information (including each proposed extension or reinstatement of an existing collection of information) and to allow 60 days for public comment on the proposed action. Interested persons are invited to send comments regarding our burden estimates or any other aspect of this collection of information, including the necessity and utility of the proposed information collection for the proper performance of the agency's functions, the accuracy of the estimated burden, ways to enhance the quality, utility, and clarity of the information to be collected, and the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

DATES: Comments must be received by May 14, 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–10630 Programs of All-Inclusive Care for the Elderly (PACE) 2020 Audit Protocol

CMS–R–263 Site Investigation for Suppliers of Durable Medical Equipment, Prosthetics, Orthotics and Supplies (DMEPOS)

CMS–437A and CMS–437B State Agency Sheets for Verifying Exclusions from the Inpatient Prospective Payment System and Supporting Regulations Rehabilitation Unit/Rehabilitation Hospital Criteria Worksheets

Under the PRA (44 U.S.C. 3501–3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term ''collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA requires federal agencies to publish a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice.

Information Collection

1. *Type of Information Collection Request:* Revision with changes of a currently approved collection; *Title of Information Collection:* Programs of All-Inclusive Care for the Elderly (PACE) 2020 Audit Protocol; *Use:* Sections 1894(e)(4) and 1934(e)(4) of the Act and the implementing regulations at 42 CFR 460.190 and 460.192 mandate that CMS, in conjunction with the SAA, audit PACE organizations (POs) annually for the first 3 years (during the trial period), and then at least every 2 years following the trial period. The information gathered during this audit will be used by the Medicare Parts C and D Oversight and Enforcement Group (MOEG) within the Center for Medicare (CM) and CMS Regional Offices, as well as the SAA, to assess PO's compliance with PACE program requirements. If outliers or other data anomalies are detected, CMS' Regional Offices will work in collaboration with MOEG and other divisions within CMS for follow-up and resolution. Additionally, POs will receive the audit results, and will be required to implement corrective action to correct any identified deficiencies.

CMS currently uses 18 data collection instruments for conducting PACE audits. These instruments are categorized as a PACE audit process and data request, a questionnaire, a pre-audit issue summary, a Root Cause Analysis template and 14 impact analyses templates. Beginning in audit year 2020, the number of data collection tools will increase from 18 to the following 31 documents. The data collected with the data request tools included in this package allow CMS to conduct a comprehensive review of PACE organizations' compliance in accordance with specific federal regulatory requirements.

CMS developed and implemented a revised PACE audit protocol. The audit protocol was designed to account for the continued growth of the PACE program and CMS' commitment to a more targeted, data-driven and outcomes-based audit approach, focused on high-risk areas that have the greatest potential for participant harm. *Form Number:* CMS–10630 (OMB control number: 0938–1327); *Frequency:* Yearly; *Affected Public:* State, Local, or Tribal Governments; *Number of Respondents:* 70; *Total Annual Responses:* 70; *Total Annual Hours:* 42,000. (For policy questions regarding this collection contact Caroline Zeman at 410 786–0116.)

2. *Type of Information Collection Request:* Extension without change of a currently approved collection; *Title of Information Collection:* Site Investigation for Suppliers of Durable Medical Equipment, Prosthetics, Orthotics and Supplies (DMEPOS); *Use:*

The primary function of the site investigation form is to provide a standardized, uniform tool to gather information from a DMEPOS supplier that tells us whether it meets certain qualifications to be a DMEPOS supplier (as found in 42 CFR 424.57(c)) and where it practices or renders its services. This site investigation form also aides the Medicare contractor (the National Supplier Clearinghouse Medicare Administrative Contractor (NSC MAC)) in verifying compliance with the required supplier standards found in 42 CFR 424.57(c). *Form Number:* CMS–R–263 (OMB control number: 0938–0749); *Frequency:* Yearly; *Affected Public:* Private Sector—Business or other for-profits and not-for-profit institutions; *Number of Respondents:* 4,811; *Total Annual Responses:* 1,603; *Total Annual Hours:* 1,603. (For policy questions regarding this collection contact Thomas Pryor at 410–786–1132.)

3. *Type of Information Collection Request:* Revision of a currently approved collection. *Title of Information Collection:* State Agency Sheets for Verifying Exclusions from the Inpatient Prospective Payment System and Supporting Regulations—Rehabilitation Unit/Rehabilitation Hospital Criteria Worksheets; *Use:* The purpose of this information collection is to renew forms CMS–437A and 437B. Inpatient Rehabilitation Facility (IRF) hospitals and units must initially attest that they meet the Inpatient Prospective Payment System (IPPS) exclusion criteria set forth at 42 CFR 412.20 to 412.29 prior to being placed into IPPS exempt status. Form CMS–437A must be completed by IRF units and form CMS–437B must be completed by IRF hospitals.

For first time verification requests for exclusion from the IPPS, an IRF unit or hospital must notify the Regional Office (RO) servicing the State in which it is located that it believes it meets the criteria for exclusion from the IPPS. Currently, all new IRF units or hospitals must provide written certification that the inpatient population it intends to serve will meet the requirements of the IPPS exclusion criteria for IRFs. The completed CMS–437A and 437B forms are submitted to the State Agency (SA) no later than 5 months before the date the IRF unit or hospital would become subject to Inpatient Rehabilitation Facility Prospective Payment System (IRF–PPS). For IRF units and hospitals already excluded from the IPPS, annual onsite re-verification surveys by the SA are no longer required. IRF units and hospitals must now re-attest to meeting the exclusion criteria every 3 years thereafter.

IRF units and hospitals that have already been excluded need not reapply for exclusion. These facilities will automatically be reevaluated yearly to determine whether they continue to meet the exclusion criteria. For the tri-annual re-verification, IRF units and hospitals will be provided with a copy of the appropriate CMS–437 worksheet at least 5-months prior to the beginning of its cost reporting period, so that the IRF unit or hospital official may complete and sign an attestation statement and complete and return the appropriate form CMS–437A or CMS–437B at least 5-months prior to the beginning of the cost reporting period. However, Fiscal Intermediaries (FIs) will continue to verify, on an annual basis, compliance with the 60 percent rule (42 CFR 412.29(b)(2)) for IRF units and hospitals through a sample of medical records and the SA will verify the medical director requirement.

The SA will notify the RO at least 60 days prior to the end of the IRF unit's or hospital's cost reporting period of the status of compliance or non-compliance with the payment requirements. The information collected on the 437A and 437B forms, along with other information submitted by the IRF is necessary for determining the IRF's IPPS exclusion status. *Form Number:* CMS–437A and CMS–437B (OMB control number: 0938–0986); *Frequency:* Tri-annually; *Affected Public:* Private sector (Business or other for-profits); *Number of Respondents:* 1,126; *Total Annual Responses:* 1,126; *Total Annual Hours:* 1,126. (For policy questions regarding this collection contact Caroline Gallaher at 410–786–8705).

Dated: March 12, 2019.

William N. Parham, III,

Director, Paperwork Reduction Staff, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2019–04895 Filed 3–14–19; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifiers: CMS–10102, CMS–10692 and CMS–10657]

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 *April 15, 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) 786–4669.

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:* National Implementation of the Hospital CAHPS Survey; *Use:* The HCAHPS (Hospital Consumer Assessment of Healthcare Providers and Systems) Survey, also known as the CAHPS® Hospital Survey or Hospital CAHPS®, is a standardized survey instrument and data collection methodology that has been in use since 2006 to measure patients' perspectives of hospital care. While many hospitals collect information on patient satisfaction, HCAHPS created a national standard for the collection and public reporting of information that enables valid comparisons to be made across all hospitals to support consumer choice.

In the FY 2018 IPPS/LTCH PPS final rule (82 FR 38328 through 38342), out of an abundance of caution, in the face of a nationwide epidemic of opioid over prescription, we finalized a refinement to the HCAHPS Survey measure as used in the Hospital Inpatient Quality Reporting Program by removing the previously adopted Pain Management questions and incorporating new Communication About Pain questions beginning with patients discharged in January 2018. As discussed in the CY 2019 OPPS/ASC proposed rule (83 FR 37218), since finalization of the Communication About Pain questions, we have received feedback that some stakeholders are concerned that, although the revised questions focus on communications with patients about their pain and treatment of that pain, rather than how well their pain was controlled, the questions still could potentially impose pressure on hospital staff to prescribe more opioids in order to achieve higher scores on the HCAHPS Survey.

In response to stakeholder feedback, recommendations from the *President's Commission on Combatting Drug Addiction and the Opioid Crisis,* to comply with the requirements of the Substance Use-Disorder Prevention that Promotes Opioid Recovery and Treatment (SUPPORT) for Patients and Communities Act (Pub. L. 115–271), and to avoid any potential unintended consequences under the Hospital Inpatient Quality Reporting (IQR) Program, CMS is revising the HCAHPS survey by removing the three recently revised pain communication questions. The removal of these questions is effective with October 2019 discharges. At that point, the HCAHPS survey will consist of 29 questions which will result in a burden decrease. *Form Number:* CMS–10102 (OMB control number 0938–0981); *Frequency:* Occasionally; *Affected Public:* Private sector (Business or other for-profits and Not-for-profit institutions); *Number of Respondents:* 4,200; *Total Annual Responses:* 3,104,200; *Total Annual Hours:* 379,290. (For policy questions regarding this collection contact William Lehrman at 410–786–1037.)

2. *Type of Information Collection Request:* New collection (Request for a new OMB control number); *Title of Information Collection:* Home and Community Based Services (HCBS) Incident Management Survey; *Use:* The Survey will be disseminated to all 51 state Medicaid agencies (including the District of Columbia) to assess incident management systems in 1915(c) waivers. States will be surveyed to identify methods and promising practices for identifying, reporting, tracking, and resolving incidents of abuse, neglect, and exploitation. The survey results will also be used to review the strengths and weaknesses of each state's incident management system and will inform guidance to help ensure compliance with sections 1902(a)(30(A) and 1915(c)(2)(A) of the Social Security Act. *Form Number:* CMS–10692 (OMB control number: 0938–TBD); *Frequency:* Once and on occasion; *Affected Public:* State, Local, or Tribal Governments; *Number of Respondents:* 51; *Total Annual Responses:* 102; *Total Annual Hours:* 153. (For policy questions regarding this collection contact Ryan Shannahan at 410–786–0295.)

3. *Type of Information Collection Request:* New collection (Request for a new OMB control number); *Title of Information Collection:* The State Flexibility to Stabilize the Market Grant Program Reporting; *Use:* Section 1003 of the Affordable Care Act (ACA) adds a new section 2794 to the PHS Act entitled, ''Ensuring That Consumers Get Value for Their Dollars.'' Specifically, section 2794(a) requires the Secretary of the Department of Health and Human Services (the Secretary) (HHS), in conjunction with the States, to establish a process for the annual review of health insurance premiums to protect consumers from unreasonable rate increases. Section 2794(c) directs the Secretary to carry out a program to award grants to States. Section 2794(c)(2)(B) specifies that any appropriated Rate Review Grant funds that are not fully obligated by the end of FY 2014 shall remain available to the Secretary for grants to States for planning and implementing the insurance market reforms and consumer protections under Part A of title XXVII of the Public Health Service Act (PHS Act). States that are awarded funds under this funding opportunity are required to provide CMS with four quarterly reports and one annual report (except for the last year of the grant) until the end of the grant period detailing the state's progression towards planning and/or implementing the pre-selected market reforms under Part A of Title XXVII of the PHS Act. A final report is due at the end of the grant period. *Form Number:* CMS–10657 (OMB control number: 0938–NEW); *Frequency:* Annually and Quarterly; *Affected Public:* State, Local or Tribal Governments; *Number of Respondents:* 31; *Total Annual Responses:* 155; *Total Annual Hours:* 2,108. (For policy questions regarding this collection contact Jim Taing at 301–492–4182.)

Dated: March 12, 2019.

William N. Parham, III,

Director, Paperwork Reduction Staff Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2019–04902 Filed 3–14–19; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Community Living

[OMB No. 0985–0006]

Agency Information Collection Activities; Proposed Collection; Public Comment Request; Performance (Progress) Report for AoA Grantees

AGENCY: Administration for Community Living, HHS.

ACTION: Notice.

SUMMARY: The Administration for Community Living (ACL) is announcing an opportunity for the public to comment on the proposed collection of

information listed above. Under the Paperwork Reduction Act of 1995 (the PRA), Federal agencies are required to publish a 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 Extension Without Changes (ICR Ext); solicits comments on the information collection requirements related to the Performance (Progress) Report for AoA Grantees under the Older Americans Act Public Law 109–365 Section 411.

DATES: Comments on the collection of information must be submitted electronically by 11:59 p.m. (EST) or postmarked by May 14, 2019.

ADDRESSES: Submit electronic comments on the collection of information to: Tomakie Washington *tomakie.washington@acl.hhs.gov.* Submit written comments on the collection of information to Administration for Community Living, Washington, DC 20201, Attention: Tomakie Washington.

FOR FURTHER INFORMATION CONTACT: Tomakie Washington, Administration for Community Living, Washington, DC 20201, 202–795–7336, *tomakie.washington@acl.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, ACL is publishing a notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, ACL invites comments on our burden estimates or any other aspect of this collection of information, including:

(1) Whether the proposed collection of information is necessary for the proper performance of ACL's functions, including whether the information will have practical utility;

(2) the accuracy of ACL's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used to determine burden estimates;

(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.

This request proposes no changes to the currently approved 0985–0006. The Administration for Community Living (ACL) requires grantees funded under its discretionary grants programs to report on the performance of their projects. This request is for an extension without change of the generic clearance mechanism currently in use to meet AoA's performance reporting requirements. Under the PRA, a ''Generic Clearance'' is approved by OMB for conducting more than one information collection (IC) using very similar methods and set protocols of questions that are approved for multiple ICs. AoA uses the generic clearance mechanism to collect performance data for a number of its smaller programs. The information submitted by ACL discretionary grantees is used by AoA to: (a) Review and monitor the grantee's progress in achieving project objectives; (b) identify significant findings, products, and practices of the project; and (c) identify areas of performance that may benefit from advice and assistance from ACL and, in rare instances, take corrective action.

The current AoA Grantee Performance Report Instrument and Instructions will expire on April 30, 2019. Under this request, ACL would request that OMB approve an extension without change of this information collection mechanism for 18 months after expiration. During this extension period, ACL plans to substantively revise and submit a Generic Clearance request covering discretionary grant ICs across ACL, not just under the Older Americans Act.

The proposed data collection instruments may be found on the ACL website for review at *https://www.acl.gov/about-acl/public-input.*

Estimated Program Burden

ACL estimates the annual burden hours associated with this collection as follows. The burden estimate is specific to the type of work done by the grantees that use this reporting format. Based on 266 respondents taking an average estimate of 20 hours per response twice a year the annual burden hours total 10,460.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Number of respondents	Annual number responses per respondent	Average burden hours per response	Total annual burden hours
ACL Grantee	266	2	20	40
Total				10,640

Dated: March 11, 2019.

Mary Lazare,

Principal Deputy Administrator.

[FR Doc. 2019–04829 Filed 3–14–19; 8:45 am]

BILLING CODE 4154–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2013–D–1574]

Medical Devices Containing Materials Derived From Animal Sources (Except for In Vitro Diagnostic Devices); Guidance for Industry and Food and Drug Administration Staff; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the availability of a final guidance entitled ''Medical Devices Containing Materials Derived from Animal Sources (Except for In Vitro Diagnostic Devices).'' FDA is issuing this guidance to update the policy regarding the use of animal-derived material in medical device manufacturing. These animal-derived materials may carry a risk of transmitting infectious disease when improperly collected, stored, or manufactured. The guidance describes the information manufacturers should document at the manufacturing facility and include in any premarket submissions.

DATES: The announcement of the guidance is published in the **Federal Register** on March 15, 2019.

ADDRESSES: You may submit either electronic or written comments on Agency guidances at any time as follows:

Electronic Submissions

Submit electronic comments in the following way:

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

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

Written/Paper Submissions

Submit written/paper submissions as follows:

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

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

Instructions: All submissions received must include the Docket No. FDA–2013–D–1574 for ''Medical Devices Containing Materials Derived from Animal Sources (Except for In Vitro Diagnostic Devices).'' 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)).

An electronic copy of the guidance document is available for download from the internet. See the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the guidance. Submit written requests for a single hard copy of the guidance document entitled ''Medical Devices Containing Materials Derived from Animal Sources (Except for In Vitro Diagnostic Devices)'' to the Office of the Center Director, Guidance and Policy Development, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 5431, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your request.

FOR FURTHER INFORMATION CONTACT: Anjana Jain, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. G450, Silver Spring, MD 20993–0002, 301–796–6363; or Scott McNamee, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 3416, Silver Spring, MD 20993–0002, 301–796–5523.

SUPPLEMENTARY INFORMATION:

I. Background

This guidance entitled ''Medical Devices Containing Materials Derived From Animal Sources (Except for In Vitro Diagnostic Devices)'' updates the November 6, 1998, guidance of the same name regarding the use of animal-derived material in medical device manufacturing. The 1998 guidance addressed ways to reduce the potential for exposure to bovine spongiform encephalopathy. The revised guidance continues to focus on the control of

transmissible disease and contains recommendations for documenting the source of animal tissue, conducting viral inactivation validation studies, as well as recommendations about the role of careful animal husbandry in ensuring safe tissue sources. The revised guidance also includes recommendations related to viral pathogens and all transmissible spongiform encephalopathies.

The information in this guidance is applicable to all medical devices that contain or are exposed to animal-derived materials (*e.g.,* bovine, ovine, porcine, avian materials) with the exception of in vitro diagnostic devices and materials generally recognized to be safe based on their method of manufacture. This guidance provides: (1) Information that FDA believes is important to document the safe and consistent manufacture of medical devices containing animal tissue; (2) information that should be included in a premarket submission for products within the scope of this guidance; (3) recommendations regarding how specific aspects of the Quality System (QS) Regulation should be applied to control and document the safe and consistent manufacture of medical devices containing animal tissue; and (4) additional information on specific approaches for determining the ability of manufacturing methods to eliminate viral contamination in the final product. Consideration of these items should aid in reducing the risk of infectious disease transmission by medical devices. FDA considered comments received on the draft guidance that appeared in the **Federal Register** of January 23, 2014 (79 FR 3826). FDA revised the guidance as appropriate in response to the comments.

II. Significance of Guidance

This guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The guidance represents the current thinking of FDA on medical devices containing materials derived from animal sources (except for in vitro diagnostic devices). 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.

III. Electronic Access

Persons interested in obtaining a copy of the guidance may do so by downloading an electronic copy from the internet. A search capability for all Center for Devices and Radiological Health guidance documents is available at *https://www.fda.gov/MedicalDevices/DeviceRegulationandGuidance/GuidanceDocuments/default.htm.* This guidance document is also available at *https://www.regulations.gov.* Persons unable to download an electronic copy of ''Medical Devices Containing Materials Derived from Animal Sources (Except for In Vitro Diagnostic Devices)'' may send an email request to *CDRH-Guidance@fda.hhs.gov* to receive an electronic copy of the document. Please use the document number 2206 to identify the guidance you are requesting.

IV. Paperwork Reduction Act of 1995

This guidance refers to previously approved collections of information. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in the following FDA regulations and guidance have been approved by OMB as listed in the following table:

21 CFR part; guidance; or FDA form	Topic	OMB control No.
807, subpart E	Premarket notification	0910–0120
814, subparts A through E	Premarket approval	0910–0231
814, subpart H	Humanitarian Device Exemption	0910–0332
812	Investigational Device Exemption	0910–0078
''De Novo Classification Process (Evaluation of Automatic Class III Designation)''.	De Novo classification process	0910–0844
''Requests for Feedback on Medical Device Submissions: The Pre-Submission Program and Meetings with Food and Drug Administration Staff''.	Q-submissions	0910–0756
820	Current Good Manufacturing Practice (CGMP); Quality System (QS) Regulation.	0910–0073

Dated: March 11, 2019.

Lowell J. Schiller,

Acting Associate Commissioner for Policy.

[FR Doc. 2019–04883 Filed 3–14–19; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2019–D–0362]

A Risk-Based Approach To Monitoring of Clinical Investigations: Questions and Answers; 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 ''A Risk-Based Approach to Monitoring of Clinical Investigations: Questions and Answers.'' The draft guidance provides information to sponsors on risk-based approaches to monitoring of investigational studies of human drug and biological products, medical devices, and combinations thereof. This guidance expands on the guidance for industry entitled ''Oversight of Clinical Investigations—A Risk-Based Approach to Monitoring'' (August 2013) (the RBM Guidance) by providing additional guidance to facilitate sponsors' implementation of risk-based monitoring.

DATES: Submit either electronic or written comments on the draft guidance by May 14, 2019 to ensure that the Agency considers your comment on this draft guidance before it begins work on the final version of the guidance.

ADDRESSES: You may submit comments on any guidance at any time as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to

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

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

Written/Paper Submissions

Submit written/paper submissions as follows:

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

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

Instructions: All submissions received must include the Docket No. FDA–2019–D–0362 for ''A Risk-Based Approach to Monitoring of Clinical Investigations: Questions and Answers.'' 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; the Office of Communication, Outreach and Development, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 3128, Silver Spring, MD 20993–0002; the Office of the Center Director, Guidance and Policy Development, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 5431, Silver Spring, MD 20993–0002; or the Office of Good Clinical Practice, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 32, Rm. 5103, Silver Spring, MD 20993. 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: Ansalan Stewart, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 6312, Silver Spring, MD 20993–0002, 240–402–6631, *ansalan.stewart@fda.hhs.gov;* Stephen Ripley, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 7268, Silver Spring, MD 20993–0002, 240–402–7911; Martin Hamilton, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 5431, Silver Spring, MD 20993–0002, 301–796–5666, *CDRHClinicalEvidence@fda.hhs.gov;* Sheila Brown, Office of Good Clinical Practice, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 32, Rm. 5109, Silver Spring, MD 20993, 301–796–6563, *Sheila.Brown@fda.hhs.gov;* or Hector Colon, Office of Regulatory Affairs/Office of Bioresearch Monitoring Operations, 12420 Parklawn Dr., Rockville, MD 20857, 301–796–3899, *orabimoinspectionpoc@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a draft guidance for industry entitled ''A Risk-Based Approach to Monitoring of Clinical Investigations: Questions and Answers.'' This document provides guidance to sponsors on risk-based approaches to monitoring investigational studies of human drug and biological products, medical devices, and combinations thereof. This guidance expands on the guidance for industry entitled ''Oversight of Clinical Investigations—A Risk-Based Approach to Monitoring'' (the RBM guidance) [1] by providing additional guidance to facilitate sponsors' implementation of risk-based monitoring.

FDA's experience since finalizing the RBM guidance in 2013 suggests that additional guidance would be beneficial regarding FDA's recommendations for planning a risk-based monitoring approach, developing the content of monitoring plans, and addressing and communicating monitoring results. The questions and answers in this draft guidance are intended to assist sponsors in planning and conducting risk-based monitoring.

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 a risk-based approach to monitoring of clinical investigations. 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

[1] Available at: *https://www.fda.gov/ucm/groups/fdagov-public/@fdagov-drugs-gen/documents/document/ucm269919.pdf.*

guidance is not subject to Executive Order 12866.

II. Paperwork Reduction Act of 1995

This draft guidance refers to previously approved collections of information found in FDA regulations. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in 21 CFR part 50 have been approved under OMB control number 0910–0755; the collections of information in 21 CFR part 312 have been approved under OMB control number 0910–0014; the collections of information in 21 CFR part 812 have been approved under OMB control number 0910–0078; and the collections of information in the guidance for industry entitled ''Oversight of Clinical Investigations: A Risk-Based Approach to Monitoring'' have been approved under OMB control number 0910–0733.

III. Electronic Access

Persons with access to the internet may obtain the draft guidance at *https://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/default.htm, https://www.fda.gov/BiologicsBloodVaccines/GuidanceComplianceRegulatoryInformation/Guidances/default.htm, https://www.fda.gov/MedicalDevices/DeviceRegulationandGuidance/GuidanceDocuments/default.htm, or https://www.regulations.gov.*

Dated: March 11, 2019.

Lowell J. Schiller,

Acting Associate Commissioner for Policy.

[FR Doc. 2019–04814 Filed 3–14–19; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2018–D–1328]

Severely Debilitating or Life-Threatening Hematologic Disorders: Nonclinical Development of Pharmaceuticals; Guidance for Industry; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the availability of a final guidance for industry entitled ''Severely Debilitating or Life-Threatening Hematologic Disorders: Nonclinical Development of Pharmaceuticals.'' This guidance outlines nonclinical studies recommended for the development of pharmaceuticals used to treat patients with severely debilitating or life-threatening hematologic disorders (SDLTHDs) and addresses comments received to the docket. This guidance is intended to streamline the development of pharmaceuticals used to treat patients with SDLTHDs, other than cancer, while protecting patients' safety and avoiding unnecessary use of animals, in accordance with the 3R (reduce, refine, replace) principles. This guidance applies to pharmaceuticals used both to treat the active disease and to prevent the recurrence of a life-threatening or debilitating event.

DATES: The announcement of the guidance is published in the **Federal Register** on March 15, 2019.

ADDRESSES: You may submit either electronic or written comments on Agency guidances at any time as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2018–D–1328 for ''Severely Debilitating or Life-Threatening Hematologic Disorders: Nonclinical Development of Pharmaceuticals.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)).

Submit written requests for single copies of this guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10001 New Hampshire Ave., Hillandale Building, 4th Floor, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance document.

FOR FURTHER INFORMATION CONTACT: John Leighton, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 22, Rm. 2204, Silver Spring, MD 20993–0002, 301–796–7550; or Haleh Saber, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 22, Rm. 2117, Silver Spring, MD 20993–0002, 301–796–7550.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a guidance for industry entitled ''Severely Debilitating or Life-Threatening Hematologic Disorders: Nonclinical Development of Pharmaceuticals.'' The purpose of this guidance is to assist sponsors in the design of nonclinical studies for the development of pharmaceuticals used to treat patients with SDLTHDs. This guidance is intended to streamline the development of pharmaceuticals used to treat patients with SDLTHDs, other than cancer, while protecting patients' safety and avoiding unnecessary use of animals, in accordance with the 3R principles. This guidance applies to pharmaceuticals used both to treat the active disease and to prevent the recurrence of a life-threatening or debilitating event.

SDLTHDs include conditions in which life expectancy is short or quality of life is greatly diminished despite available therapies. FDA has defined life-threatening and severely debilitating diseases in regulations (21 CFR 312.81). A streamlined approach to drug development is necessary to allow patients with SDLTHDs earlier and continued access to new and potentially effective therapies. The draft guidance for industry entitled ''Rare Diseases: Common Issues in Drug Development'' (available at *https://www.fda.gov/ucm/groups/fdagov-public/@fdagov-drugs-gen/documents/document/ucm458485.pdf*) does not specifically facilitate the nonclinical development of pharmaceuticals for treatment of SDLTHDs. Because SDLTHDs are not all rare diseases, they can fall outside the scope of the draft guidance for rare diseases. The present document provides consistent guidance for all nononcology SDLTHDs, independent of disease incidence or prevalence.

This guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The guidance represents the current thinking of FDA on ''Severely Debilitating or Life-Threatening Hematologic Disorders: Nonclinical Development of Pharmaceuticals.'' It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations. This guidance is not subject to Executive Order 12866.

II. Paperwork Reduction Act of 1995

This guidance refers to previously approved collections of information that are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collection of information submitted under 21 CFR part 312 has been approved under OMB control number 0910–0014. The collection of information submitted under 21 CFR part 314 has been approved under OMB control number 0910–0001.

III. Electronic Access

Persons with access to the internet may obtain the guidance at either *https://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/default.htm* or *https://www.regulations.gov.*

Dated: March 11, 2019.

Lowell J. Schiller,

Acting Associate Commissioner for Policy.

[FR Doc. 2019–04816 Filed 3–14–19; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2012–D–1145]

Enrichment Strategies for Clinical Trials To Support Demonstration of Effectiveness of Human Drugs and Biological Products; Guidance for Industry; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the availability of a final guidance for industry entitled ''Enrichment Strategies for Clinical Trials to Support Demonstration of Effectiveness of Human Drugs and Biological Products.'' The purpose of this guidance is to assist industry in developing enrichment strategies that can be used in clinical investigations intended to demonstrate effectiveness (and in some cases safety) of human drugs and biological products. This guidance defines several types of enrichment strategies, provides examples of potential clinical trial designs, and discusses potential regulatory considerations when using enrichment strategies in clinical trials. This guidance finalizes the draft guidance entitled ''Enrichment Strategies for Clinical Trials to Support Approval of Human Drugs and Biological Products'' issued on December 17, 2012.

DATES: The announcement of the guidance is published in the **Federal Register** on March 15, 2019.

ADDRESSES: You may submit either electronic or written comments on Agency guidances at any time as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

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

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

Instructions: All submissions received must include the Docket No. FDA–2012–D–1145 for ''Enrichment Strategies for Clinical Trials to Support Demonstration of Effectiveness of Human Drugs and Biological Products; Guidance for Industry; Availability. Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

• Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)).

Submit written requests for single copies of this guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10001 New Hampshire Ave., Hillandale Building, 4th Floor, Silver Spring, MD 20993–0002; or the Office of Communication, Outreach, and Development, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 3128, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance document.

FOR FURTHER INFORMATION CONTACT: Robert Temple, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 22, Rm. 4212, Silver Spring, MD 20993–0002, 301–796–2270; or Stephen Ripley, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 7301, Silver Spring, MD 20993–0002, 240–402–7911.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a final guidance for industry entitled ''Enrichment Strategies for Clinical Trials to Support Demonstration of Effectiveness of Human Drugs and Biological Products.'' This document provides guidance to industry on enrichment strategies that can be used in clinical trials intended to demonstrate effectiveness (and in some cases safety) of human drugs and biological products. This guidance finalizes the draft guidance entitled ''Enrichment Strategies for Clinical Trials to Support Approval of Human Drugs and Biological Products'' issued on December 17, 2012 (77 FR 74670). Changes made to the guidance took into consideration comments received related to discussions of study design and analysis, specific patient populations to be studied, and genomic strategy considerations. In addition, editorial changes were made, primarily, for clarification and elimination of redundancies. Although the draft guidance was issued by the Center for Drug Evaluation and Research (CDER), the Center for Biologics Evaluation and Research (CBER), and the Center for Devices and Radiological Health, upon consideration, the finalized guidance is being issued by CDER and CBER only because the topics covered pertain mostly to studies conducted for products regulated by these two centers.

This guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The guidance represents the current thinking of FDA on ''Enrichment Strategies for Clinical Trials to Support Demonstration of Effectiveness of Human Drugs and Biological Products.'' It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations. This guidance is not subject to Executive Order 12866.

II. Paperwork Reduction Act

This guidance refers to previously approved collections of information that are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in 21 CFR parts 312 and 314 have been approved under OMB control numbers 0910–0014 and 0910–0001, respectively, and the collection of information resulting from prescription drug product labeling is approved under OMB control number 0910–0572.

III. Electronic Access

Persons with access to the internet may obtain the guidance at *https://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/default.htm, https://www.fda.gov/BiologicsBloodVaccines/GuidanceComplianceRegulatoryInformation/default.htm,* or *https://www.regulations.gov.*

Dated: March 11, 2019.

Lowell J. Schiller,

Acting Associate Commissioner for Policy.

[FR Doc. 2019–04815 Filed 3–14–19; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Designation of a Class of Employees for Addition to the Special Exposure Cohort

AGENCY: National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control and Prevention, Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: HHS gives notice of a decision to designate a class of employees from the Y–12 Plant in Oak Ridge, Tennessee, as an addition to the Special Exposure Cohort (SEC) under the Energy Employees Occupational Illness Compensation Program Act of 2000.

FOR FURTHER INFORMATION CONTACT: Stuart L. Hinnefeld, Director, Division of Compensation Analysis and Support, NIOSH, 1090 Tusculum Avenue, MS C–46, Cincinnati, OH 45226–1938, Telephone 1–877–222–7570. Information requests can also be submitted by email to *DCAS@CDC.GOV.*

SUPPLEMENTARY INFORMATION:

Authority: 42 U.S.C. 7384q(b). 42 U.S.C. 7384*l*(14)(C).

On February 26, 2019, as provided for under 42 U.S.C. 7384*l*(14)(C), the Secretary of HHS designated the following class of employees as an addition to the SEC:

All employees of the Department of Energy, its predecessor agencies, and their contractors and subcontractors who worked at the Y–12 Plant in Oak Ridge, Tennessee, during the period January 1, 1958, through December 31, 1976, for a number of work days aggregating at least 250 work days, occurring either solely under this employment or in combination with work days within the parameters established for one or more other classes of employees in the Special Exposure Cohort.

This designation will become effective on March 28, 2019, unless Congress provides otherwise prior to the effective date. After this effective date, HHS will publish a notice in the **Federal Register** reporting the addition of this class to the SEC or the result of any provision by Congress regarding the decision by HHS to add the class to the SEC.

Frank J. Hearl,

Chief of Staff, National Institute for Occupational Safety and Health.

[FR Doc. 2019–04824 Filed 3–14–19; 8:45 am]

BILLING CODE 4163–19–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Arthritis and Musculoskeletal and Skin Diseases; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Institute of Arthritis and Musculoskeletal and Skin Diseases Special Emphasis Panel, March 29, 2019, 08:00 a.m. to March 29, 2019, 05:00 p.m., National Institutes of Health, One Democracy Plaza, 6701 Democracy Boulevard, Bethesda, MD 20892 which was published in the **Federal Register** on February 07, 2019, 84 FR 2551.

This meeting is being amended to change the date of the meeting from March 29, 2019 to April 1, 2019. This meeting is closed to the public. The meeting is closed to the public.

Dated: March 12, 2019.

Sylvia L. Neal,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2019–04853 Filed 3–14–19; 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; Panel-Tumor Glycomics.

Date: April 11, 2019.

Time: 10:00 a.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute, Shady Grove, 9609 Medical Center Drive, Room 7W260 Rockville, MD 20850 (Telephone Conference Call).

Contact Person: Clifford W. Schweinfest, Ph.D., Scientific Review Officer Special Review Branch Division of Extramural Activities National Cancer Institute, NIH 9609 Medical Center Drive, Room 7W108 Bethesda, MD 20892–9750 240–276–6343 *schweinfestcw@mail.nih.gov.*

(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: March 11, 2019.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2019–04851 Filed 3–14–19; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Minority Health and Health Disparities; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of a meeting of the National Advisory Council on Minority Health and Health Disparities.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and/or contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications and/or contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Advisory Council on Minority Health and Health Disparities.

Date: May 20–21, 2019.

Closed: May 20, 2019, 1:00 p.m. to adjournment.

Agenda: To review and evaluate grant applications and/or proposals.

Place: National Institutes of Health, 6710B Rockledge Drive, Conference Rooms 1425–1427, Bethesda, MD 20892.

Open: May 21, 2019, 8:00 a.m. to 2:00 p.m.

Agenda: The agenda will include opening remarks, administrative matters, Director's report, NIH Health Disparities update, and other business of the Council.

Place: National Institutes of Health, 6710B Rockledge Drive, Conference Rooms 1425–1427, Bethesda, MD 20892.

Contact Person: Dr. Joyce A. Hunter, Deputy Director, NIMHD, National Institutes of Health, National Institute on Minority

Health and Heath Disparities, 6707 Democracy Blvd., Suite 800, Bethesda, MD 20892, (301) 402–1366, *hunterj@nih.gov.*

Any member of the public interested in presenting oral comments to the committee may notify the Contact Person listed on this notice at least 10 days in advance of the meeting. Interested individuals and representatives of organizations may submit a letter of intent, a brief description of the organization represented, and a short description of the oral presentation. Only one representative of an organization may be allowed to present oral comments and if accepted by the committee, presentations may be limited to five minutes. Both printed and electronic copies are requested for the record. In addition, any interested person may file written comments with the committee by forwarding their statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

In the interest of security, NIH has instituted stringent procedures for entrance onto the NIH campus. All visitor vehicles, including taxis, hotel, and airport shuttles, will be inspected before being allowed on campus. Visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

Dated: March 12, 2019.

Ronald J. Livingston, Jr.,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2019–04855 Filed 3–14–19; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Proposed Collection; 60-Day Comment Request; Center for Cancer Training (CCT) Application Form for Electronic Individual Development Plan (eIDP) (National Cancer Institute)

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: In compliance with the requirement of the Paperwork Reduction Act of 1995 to provide opportunity for public comment on proposed data collection projects, the National Institutes of Health, National Cancer Institute (NCI) will publish periodic summaries of propose projects to be submitted to the Office of Management and Budget (OMB) for review and approval.

DATES: Comments regarding this information collection are best assured of having their full effect if received within 60 days of the date of this publication.

FOR FURTHER INFORMATION CONTACT: To obtain a copy of the data collection plans and instruments, submit comments in writing, or request more information on the proposed project, contact: Erika Ginsburg, Scientific Program Analyst, Center for Cancer Training, National Cancer Institute, 9609 Medical Center Drive, Room 2W–106, Bethesda, Maryland, 20892 or call non-toll-free number (240) 276–5627 or Email your request, including your address to: *ginsbure@mail.nih.gov.* Formal requests for additional plans and instruments must be requested in writing.

SUPPLEMENTARY INFORMATION: Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 requires: Written comments and/or suggestions from the public and affected agencies are invited to address one or more of the following points: (1) Whether the proposed collection of information is necessary for the proper performance of the function 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 minimizes 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.

Proposed Collection Title: Center for Cancer Training (CCT) Application Form for electronic Individual Development Plan (eIDP), 0925–XXXX, Exp., Date XX/XXXX, NEW, National Cancer Institute (NCI), National Institutes of Health (NIH).

Need and Use of Information Collection: This information collection request is to approve the electronic Individual Development Plan (eIDP) for three years. The National Cancer Institute's (NCI) Center for Cancer Training (CCT) supports NCI's goal of training cancer researchers with various educational levels (postbaccalaureate, graduate students, postdoctoral fellows) and for varying periods of time (3 months to 5 years). The eIDP is an online, detailed questionnaire focused on responses to career and professional goals and expectations while the trainee works at the NCI. The eIDP ensures the NCI trainees are receiving proper career and professional guidance, making appropriate progress, and determining activities to achieve their goals. The eIDP is also used to track trainees' career and professional goals and to ensure trainees receive the tools needed to achieve those goals. It is expected the trainees will complete the eIDP annually and that the eIDP process could be improved by their responses. The effectiveness of training could also be enhanced by the reports received by the trainees completing the eIDP. Individual Development Plans have been collected by paper and pencil from trainees since 2001. With the implementation of the electronic system, a pilot of the eIDP was approved by OMB (#0925–0046) and implemented in December 2018. The pilot improved the clarity of the instructions for the eIDP system, and incorporated feedback from the trainees to improve the overall trainee IDP experience, which advances the effectiveness of training.

OMB approval is requested for 3 years. There are no costs to respondents other than their time. The total estimated annualized burden are 1,209 hours.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Number of respondents	Number of responses per respondent	Average time per response (in hours)	Total annual burden hours
Individuals—Trainees	1,000	1	1	1,000
Individuals—Alumni	500	1	5/60	42
Individuals—Feedback	500	1	20/60	167
Total	1,000	1,000		1,209

Patricia M. Busche,

Project Clearance Liaison, National Cancer Institute, National Institutes of Health.

[FR Doc. 2019–04856 Filed 3–14–19; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Alcohol Abuse and Alcoholism; 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 Alcohol Abuse and Alcoholism Special Emphasis Panel; RFA–AA–19–001 Limited Competition: Collaborative Study on the Genetics of Alcoholism (COGA).

Date: April 29, 2019.

Time: 8:30 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Main Conference Hall, 6700A Rockledge Drive, Bethesda, MD 20817.

Contact Person: Beata Buzas, Ph.D., Scientific Review Officer, National Institute on Alcohol Abuse and Alcoholism, National Institutes of Health, 6700B Rockledge Drive, Room 2116, Bethesda, MD 20852, 301–443–0800, *bbuzas@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.271, Alcohol Research Career Development Awards for Scientists and Clinicians; 93.272, Alcohol National Research Service Awards for Research Training; 93.273, Alcohol Research Programs; 93.891, Alcohol Research Center Grants; 93.701, ARRA Related Biomedical Research and Research Support Awards, National Institutes of Health, HHS)

Dated: March 11, 2019.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2019–04852 Filed 3–14–19; 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 Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Autism and Other Neurodevelopmental Disorders.

Date: March 26, 2019.

Time: 10:00 a.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Samuel C. Edwards, Ph.D., Chief, BDCN IRG, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5210, MSC 7846, Bethesda, MD 20892, (301) 435–1246, *edwardss@csr.nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Toxicology and Digestive, Kidney and Urological Systems AREA Review.

Date: April 3, 2019.

Time: 2:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Ganesan Ramesh, Ph.D., Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2182 MSC 7818, Bethesda, MD 20892, 301–827–5467, *ganesan.ramesh@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: March 12, 2019.

Sylvia L. Neal,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2019–04850 Filed 3–14–19; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

The National Institutes of Health "Methods and Measurement in Sexual & Gender Minority Health Research: Identifying Research Opportunities"

ACTION: Request for comments.

SUMMARY: Sexual and gender minority (SGM) is an umbrella phrase that encompasses lesbian, gay, bisexual, and transgender populations as well as those whose sexual orientation, gender identity and expressions, or reproductive development varies from traditional, societal, cultural, or physiological norms. This includes Disorders or Differences in Sex Development (DSD), sometimes known as intersex.

The Sexual & Gender Minority Research Office (SGMRO) at the National Institutes of Health (NIH) has developed the document ''Methods and Measurement in Sexual & Gender Minority Health Research: Identifying Research Opportunities'' pertaining specifically and exclusively to methods and measurement research in SGM health research. Experts in the field identified research opportunities related to methods and measurement in SGM health research during a workshop held in the Spring of 2018. The document reflects the content of the discussion among participants at the Methods and Measurement in SGM Health Research Workshop and does not represent an official position of NIH or any other government agency. We would like to obtain comment on the specifics of this document to consider for the purposes of informing and enhancing its content.

DATES: To ensure consideration of your comments, responses must be received by April 15, 2019.

ADDRESSES: Responses to this notice must be submitted electronically by email to *sgmhealthresearch@od.nih.gov.* Please use the subject ''Comments: Measurement.''

FOR FURTHER INFORMATION CONTACT: Dr. Karen Parker, Division of Program Coordination, Planning, and Strategic Initiatives, Office of the Director, NIH, Building 1, Room 257, 1 Center Drive,

Bethesda, MD 20892, Telephone: 301–451–2055, Email: *karen.parker@nih.gov.*

SUPPLEMENTARY INFORMATION:

Background

In 2015, the National Institutes of Health (NIH) established the Sexual & Gender Minority Research Office (SGMRO) in the Division of Program Coordination, Planning, and Strategic Initiatives in the Office of the Director. The role of the SGMRO is to: Coordinate sexual and gender minority (SGM) health research activities across NIH; represent NIH at conferences and events on trans-NIH activities focused on SGM research; coordinate and convene conferences and workshops to inform priority setting and research activities; collaborate with NIH Institutes and Centers on the development of SGM health research reports; manage information dissemination related to SGM research; and work with NIH Institutes and Centers to leverage resources and develop initiatives to support SGM health research.

The *21st Century Cures Act,* signed into law on December 13, 2016, included SGM-specific provisions, by amending the Public Health Service Act, SEC. 404N. [283] POPULATION FOCUSED RESEARCH. Those provisions are summarized as follows:

''The Director of the National Institutes of Health shall, as appropriate, encourage efforts to improve research related to the health of sexual and gender minority populations, including by: facilitating increased participation of sexual and gender minority populations in clinical research supported by the National Institutes of Health, and reporting on such participation, as applicable; facilitating the development of valid and reliable methods for research relevant to sexual and gender minority populations; and addressing methodological challenges.''

As a result of the growing need to develop better measures and methods to accurately capture and understand the health of SGM populations, the SGMRO hosted a workshop to identify research opportunities in methods and measurement in SGM-related health research. The planning committee included both NIH staff and extramural researchers who designed the workshop agenda and developed a schema to guide the discussions.

The workshop focused on three areas: Measurement of SGM status; measurement of related constructs; and sampling. Extramural researchers were invited who represented various research areas, stages of career, populations of interest, and disciplines.

Community members, NIH staff, and other federal staff were also included. Discussions focused around varying concepts to consider under each of the domains identified by the planning committee; overarching themes of intersectionality, lifespan, culture, and historical context and cohort effects were considered throughout the discussions. The concepts for consideration are highlighted below:

I. Measurement of SGM Status

- Sexual Orientation (identity, behavior, attraction)
- Gender Identity (cisgender, transgender, gender nonconforming, non-binary)
- Disorders or Differences of Sex Development/Intersex (medical condition at birth vs. self-identified)
- Fluidity (identity across contexts, time, and developmental stage)
- Assessment Modality (survey, report, collection from a provider, on the phone, internet, paper)
- Clinical Settings

II. Measurement of Related Constructs

- Stigma (structural, interpersonal, individual or internalized)
- Coming Out/Disclosure Process
- Family Relationships
- Cultural Competence/Humility in the Healthcare and Research Settings (providers, facilities, etc.)

III. Sampling

- Probability vs. Non-Probability Sampling
- Sampling Across Demographics/Sub-populations
- Small Sample Sizes

Information Requested

This notice invites public comment on the proposed research needs and opportunities developed at the Methods and Measurement in Sexual and Gender Minority Health Research Workshop. To inform the final document, comment is requested on the following questions:

(1) What are the most important and relevant methods and measurement-related research questions to members of the SGM community?

(2) What are the key methods and measurement-related research questions missing from the research opportunities that should be included?

Comments regarding this information collection are best assured of having their full effect if received within 30 days of the date of this publication. April 15, 2019.

General Information

All of the following fields in the response are optional and voluntary. Any personal identifiers will be removed when responses are compiled. Proprietary, classified, confidential, or sensitive information should not be included in your response. This notice is for planning purposes only and is not a solicitation for applications or an obligation on the part of the United States (U.S.) government to provide support for any ideas identified in response to it. Please note that the U.S. government will not pay for the preparation of any comment submitted or for its use of that comment.

Please indicate if you are one of the following: Grantee or other PI, administrator, student, institutional leader or institutional administrator, NIH employee, or other. If you are an investigator, please indicate your career level and main area of research interest, including whether the focus is clinical or basic. If you are a member of a particular advocacy or professional organization, please indicate the name and primary focus of the organization (*e.g.,* research support, patient care, etc.) and whether you are responding on behalf of your organization (if yes, please indicate your position within the organization). Please provide your name and email address.

Privacy Act Notification Statement: We are requesting your comments for Methods and Measurement in Sexual & Gender Minority Health Research: Developing a Research Agenda and Identifying Research Opportunities (*https://dpcpsi.nih.gov/sites/default/files/MethodsMeasures_Paper_508_FV.pdf*). The information you provide may be disclosed to NIH senior staff and those serving on the SGM Research Coordinating Committee and to contractors working on our behalf. Submission of this information is voluntary. However, the information you provide will help to categorize responses by scientific area of expertise, organizational entity or professional affiliation.

Collection of this information is authorized under 42 U.S.C. 203, 24 1, 2891–1 and 44 U.S.C. 310 I and Section 30l and 493 of the Public Health Service Act regarding the establishment of the National Institutes of Health, its general authority to conduct and fund research and to provide training assistance, and its general authority to maintain records in connection with these and its other functions.

Dated: March 8, 2019.

Lawrence A. Tabak,

Deputy Director, National Institutes of Health.

[FR Doc. 2019–04790 Filed 3–14–19; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Center for Scientific Review Special Emphasis Panel, March 25, 2019, 12:00 p.m. to March 25, 2019, 03:00 p.m., National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 which was published in the **Federal Register** on February 19, 2019, 84 FR 4833.

The meeting will be held on April 1, 2019. The meeting time and location remain the same. The meeting is closed to the public.

Dated: March 12, 2019.

Sylvia L. Neal,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2019–04849 Filed 3–14–19; 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; BRAIN Initiative: Novel Tools to Probe Cells and Circuits in Human and Non-Human Primate Brain (UG3/UH3).

Date: April 1, 2019.

Time: 12:00 p.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 (Virtual Meeting).

Contact Person: Erin E. Gray, Ph.D., Scientific Review Officer, Division of Extramural Activities, National Institute of Mental Health, National Institutes of Health, 6001 Executive Boulevard, NSC 6152B, Bethesda, MD 20892, 301–402–8152, *erin.gray@nih.gov.*

Name of Committee: National Institute of Mental Health Special Emphasis Panel; NIMH Clinical Trials Peer Review Meeting.

Date: April 8, 2019.

Time: 3:00 p.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: Karen Gavin-Evans, Ph.D., Scientific Review Officer, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Boulevard, Room 6153, MSC 9606, Bethesda, MD 20892, 301–451–2356, *gavinevanskm@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program No. 93.242, Mental Health Research Grants, National Institutes of Health, HHS)

Dated: March 11, 2019.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2019–04854 Filed 3–14–19; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2019–0032]

Prince William Sound Regional Citizens' Advisory Council Recertification

AGENCY: Coast Guard, DHS.

ACTION: Notice of recertification.

SUMMARY: This notice informs the public that the Coast Guard has recertified the Prince William Sound Regional Citizens' Advisory Council (PWSRCAC) as an alternative voluntary advisory group for Prince William Sound, Alaska. This certification allows the PWSRCAC to monitor the activities of terminal facilities and crude oil tankers under an alternative composition, other than prescribed, Prince William Sound Program established by statute.

DATES: This recertification is effective for the period from February 28, 2019 through March 1, 2020.

FOR FURTHER INFORMATION CONTACT: LT Ian McPhillips, Seventeenth Coast Guard District (dpi), by phone at (907)463–2809, email at *Ian.P.McPhillips@uscg.mil.*

SUPPLEMENTARY INFORMATION:

Background and Purpose

As part of the Oil Pollution Act of 1990 (OPA 90), Congress passed the Oil Terminal and Oil Tanker Environmental Oversight and Monitoring Act of 1990 (the Act), 33 U.S.C. 2732, to foster a long-term partnership among industry, government, and local communities in overseeing compliance with environmental concerns in the operation of crude oil terminals and oil tankers.

The President has delegated his authority under 33 U.S.C 2732(o) respecting certification of advisory councils, or groups, subject to the Act to the Secretary of the Department of Homeland Security. Section 8(g) of Executive Order 12777, (56 FR 54757, October 22, 1991), as amended by section 34 of Executive Order 13286 (68 FR 10619, March 5, 2003). The Secretary redelegated that authority to the Commandant of the USCG. Department of Homeland Security Delegation No. 0170.1, paragraph 80 of section II. The Commandant redelegated that authority to the Chief, Office of Marine Safety, Security and Environmental Protection (G–M) on March 19, 1992 (letter #5402).

The Assistant Commandant for Marine Safety and Environmental Protection (G–M), redelegated recertification authority for advisory councils, or groups, to the Commander, Seventeenth Coast Guard District on February 26, 1999 (letter #16450).

On July 7, 1993, the USCG published a policy statement, ''Alternative Voluntary Advisory Groups, Prince William Sound and Cook Inlet'' (58 FR 36504), to clarify the factors considered in making the determination as to whether advisory councils, or groups, should be certified in accordance with the Act.

On September 16, 2002, the USCG published a policy statement, 67 FR 58440, which changed the recertification procedures such that applicants are required to provide the USCG with comprehensive information every three years (triennially). For each of the two years between the triennial application procedures, applicants submit a letter requesting recertification that includes a description of any substantive changes to the information provided at the previous triennial recertification. Further, public comment is only solicited during the triennial comprehensive review.

The Alyeska Pipeline Service Company pays the PWSRCAC $3.6 million annually in the form of a long-term contract. In return for this funding, the PWSRCAC must annually show that it ''fosters the goals and purposes'' of OPA 90 and is ''broadly representative of the communities and interests in the vicinity of the terminal facilities and Prince William Sound.'' The PWSRCAC

is an independent, nonprofit organization founded in 1989. Though it receives federal oversight like many independent, non-profit organizations, it is not a federal agency. The PWSRCAC is a local organization that predates the passage of OPA 90. The existence of the PWSRCAC was specifically recognized in OPA 90 where it is defined as an ''alternate voluntary advisory group.''

Alyeska funds the PWSRCAC, and the Coast Guard makes sure the PWSRCRC operates in a fashion that is broadly consistent with OPA 90.

Recertification

By letter dated Feb 04 2019, the Commander, Seventeenth Coast Guard District, certified that the PWSRCAC qualifies as an alternative voluntary advisory group under 33 U.S.C. 2732(o). This recertification terminates on March 1, 2020.

Matthew T. Bell Jr.,

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

[FR Doc. 2019–04876 Filed 3–14–19; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2011–0351]

Atlantic Coast Port Access Route Study: Port Approaches and International Entry and Departure Transit Areas

AGENCY: Coast Guard, DHS.

ACTION: Notice of study; request for comments.

SUMMARY: The Coast Guard is beginning a new study of routes used by ships to access ports on the Atlantic Coast of the United States. This new study supplements and builds on the Atlantic Coast Port Access Route Study (ACPARS) completed on April 5, 2017.

DATES: Coast Guard District Commanders will prioritize and schedule a Port Access Route Study (PARS) for specific port approaches and international transit areas associated with proposed ACPARS fairways within their areas of responsibilities (AOR). They will post these milestones on the docket by May 1, 2019. This initiative is expected to be completed by May 2021.

ADDRESSES: You may submit comments identified by docket number USCG–2011–0351 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: For information about this document call or email George Detweiler, Coast Guard; telephone 202–372–1566, email *George.H.Detweiler@uscg.mil.*

SUPPLEMENTARY INFORMATION:

Public Participation and Comments

Public participation is essential to this study and the Coast Guard will consider all comments and material received during the comment period. We encourage you to participate by submitting comments and related materials. All comments received will be posted without change to *http://www.regulations.gov* and will include any personal information you have provided. You may submit your comments and material online via *http://www.regulations.gov.* Type ''USCG–2011–0351'' into the search bar and click search, next to the displayed search results click ''Comment Now'', which will open the comment page. If you cannot submit your material by using *https://www.regulations.gov,* contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this notice for alternate instructions. Reference documents and all public comments, will be available in our online docket at *https://www.regulations.gov,* and can be viewed by following that website's instructions. Type ''USCG–2011–0351'' into the search bar and click search, next to the displayed search results click ''Open Docket Folder.'' Additionally, if you visit the online docket and sign up for email alerts, you will be notified when comments are posted.

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, you may review a Privacy Act notice regarding the Federal Docket Management System in the March 24, 2005, issue of the **Federal Register** (70 FR 15086).

Public Meeting

You may submit a request for a public meeting online via *http://www.regulations.gov.* Please explain why you believe a public meeting would be beneficial. If we determine that a public meeting would aid in the study, we will hold a meeting at a time and place announced by a later notice in the **Federal Register**. When it is published, we will place a copy of the announcement in the docket and you will receive an email alert from *www.regulations.gov.*

Definitions

Fairway or *shipping safety fairway* means a lane or corridor in which no artificial island or fixed structure, whether temporary or permanent, will be permitted. See 33 CFR 166.105 (a).

International Entry and Departure Transit Areas mean navigation routes followed by vessels coming to or departing from the United States and an international seaport. For this study, international entry and departure transit areas will connect to recommended shipping safety fairways in the ACPARS at the outer limit of the EEZ.

Port Approaches mean navigation routes followed by vessels entering or departing a seaport from or to a primary transit route. This study will consider port approaches that connect seaports to recommended shipping safety fairways described in the ACPARS.

Discussion

The Coast Guard is beginning a new study of the port approaches and international entry and departure transit areas to ports on the Atlantic Coast of the United States. These routes are critical links of a robust and effective Marine Transportation System (MTS) and integral to efficient shipping safety fairways recommended in the Atlantic Coast Port Access Route Study (ACPARS). The ACPARS analyzed the Atlantic Coast waters seaward of existing port approaches within the U.S. Exclusive Economic Zone (EEZ) to identify navigation routes customarily followed by ships engaged in commerce between international and domestic U.S. ports. See *https://navcen.uscg.gov/pdf/PARS/ACPARS_Final_Report_08Jul2015_Combined_Appendix_Enclosures_Final_After_LMI_Review.pdf.* This new study is focused on routes between port approaches and international entry and departure transit areas.

The Ports and Waterways Safety Act (PWSA) (46 U.S.C. 70003(c)) requires the Coast Guard to study potential traffic density and assess the need for safe access routes for vessels. The Coast Guard coordinates with Federal and State agencies, and considers the views of the maritime community, environmental groups, and other interested stakeholders in order to reconcile the need for safe access routes with other reasonable waterway uses in the study area.

The ACPARS analyzed waters located seaward of existing port approaches within the EEZ along the entire Atlantic Coast. Automatic Identification System (AIS) data and information from stakeholders were used to identify and verify deep draft and coastwise navigation routes that are typically followed by ships engaged in commerce between international and domestic U.S. ports. Additional analysis of sea space for vessels to maneuver in compliance with the International Regulations for Preventing Collisions at Sea led to development of marine planning guidelines and recommendations for shipping safety fairways.

An analysis of potential traffic density of vessels proceeding to and from a U.S. port is referred to as a Port Access Route Study (PARS). Several PARS will examine ports along the Atlantic coast that are economically significant, support military operations or critical to national defense and related international entry and departure transit areas that are integral to the safe, efficient and unimpeded flow of commerce to/from major international shipping lanes. Similar to the ACPARS, PARS will use AIS data and information from stakeholders to identify and verify customary navigation routes as well as potential conflicts involving alternative activities, such as wind energy generation and offshore mineral exploitation and exploration.

Scope

The Coast Guard will analyze ports that are economically significant, that support military operations or are strategic for national defense along the Atlantic. This includes but is not limited to:

First Coast Guard District

Kennebec River/Bath, ME;, Port of Portland, ME;, Portsmouth, NH;, New Bedford, MA;, Port of Boston, MA;, Narragansett Bay, RI;, Long Island Sound Eastern Entrances;, Groton, CT;, New Haven Harbor, CT; and, Port of New York and New Jersey, including Port Elizabeth and Newark.

Fifth Coast Guard District

Port of Philadelphia, PA including Camden-Gloucester City, NJ, Port of Wilmington, DE and New Castle, DE;, Port of Baltimore, MD;, Port of Virginia including Norfolk, Newport News and Hampton Roads, VA;, Morehead City, NC; and, Wilmington, NC.

Seventh Coast Guard District

Port of Charleston, SC;, Port of Savannah, GA;, Brunswick, GA;, Kings Bay, GA;, Port of Jacksonville, FL;, Port Canaveral, FL;, Port Everglades, FL; and, Port of Miami, FL.

Methodology

This study will analyze navigation routes to/from the ports identified above to the proposed fairways outlined in the ACPARS as well as international routes to/from the United States. Current capabilities and planned improvements in these ports to handle maritime conveyances will be considered. Analyses will be conducted in accordance with Marine Planning to Operate and Maintain the Marine Transportation System (MTS) and Implement National Policy, COMDTINST 16003.2A, and coordinated by the cognizant District Commander. See *https://media.defense.gov/2017/Mar/15/2001716995/-1/-1/0/CI_16003_2A.PDF.* Notices of study will be published in the **Federal Register** to inform and solicit public comments for each PARS.

This notice is issued under authority of 46 U.S.C. 70003(c) and 5 U.S.C. 552[ ].

Dated: March 11, 2019.

Michael D. Emerson,

Director, Marine Transportation Systems.

[FR Doc. 2019–04891 Filed 3–14–19; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2019–0002]

Final Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: Flood hazard determinations, which may include additions or modifications of Base Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, or regulatory floodways on the Flood Insurance Rate Maps (FIRMs) and where applicable, in the supporting Flood Insurance Study (FIS) reports have been made final for the communities listed in the table below.

The FIRM and FIS report are the basis of the floodplain management measures that a community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the Federal Emergency Management Agency's (FEMA's) National Flood Insurance Program (NFIP). In addition, the FIRM and FIS report are used by insurance agents and others to calculate appropriate flood insurance premium rates for buildings and the contents of those buildings.

DATES: The date of June 7, 2019 has been established for the FIRM and, where applicable, the supporting FIS report showing the new or modified flood hazard information for each community.

ADDRESSES: The FIRM, and if applicable, the FIS report containing the final flood hazard information for each community is available for inspection at the respective Community Map Repository address listed in the tables below and will be available online through the FEMA Map Service Center at *https://msc.fema.gov* by the date indicated above.

FOR FURTHER INFORMATION CONTACT: Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov;* or visit the FEMA Map Information eXchange (FMIX) online at *https://www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) makes the final determinations listed below for the new or modified flood hazard information for each community listed. Notification of these changes has been published in newspapers of local circulation and 90 days have elapsed since that publication. The Deputy Associate Administrator for Insurance and Mitigation has resolved any appeals resulting from this notification.

This final notice is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR part 67. FEMA has developed criteria for floodplain management in floodprone areas in accordance with 44 CFR part 60.

Interested lessees and owners of real property are encouraged to review the new or revised FIRM and FIS report available at the address cited below for each community or online through the FEMA Map Service Center at *https://msc.fema.gov.*

The flood hazard determinations are made final in the watersheds and/or communities listed in the table below.

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Michael M. Grimm,

Assistant Administrator for Risk Management, Department of Homeland Security, Federal Emergency Management Agency.

Community	Community map repository address
Pulaski County, Arkansas and Incorporated Areas Docket No.: FEMA–B–1709	
City of Jacksonville	City Hall, 1 Municipal Drive, Jacksonville, AR 72076.
City of Little Rock	Public Works Administration Building, 701 West Markham Street, Little Rock, AR 72201.
Unincorporated Areas of Pulaski County	Pulaski County Public Works, 3200 Brown Street, Little Rock, AR 72204.
Cherokee County, Georgia and Incorporated Areas Docket No.: FEMA–B–1763	
City of Canton	City Hall, 151 Elizabeth Street, Canton, GA 30114.
City of Holly Springs	City Hall, 3237 Holly Springs Parkway, Holly Springs, GA, 30115.
City of Waleska	City Hall, 8891 Fincher Road, Waleska, GA 30183.
City of Woodstock	City Hall, 12453 Highway 92, Woodstock, GA 30188.
Unincorporated Areas of Cherokee County	Cherokee County Board of Commissioners, 1130 Bluffs Parkway, Canton, GA 30114.
Columbia County, Georgia and Incorporated Areas Docket No.: FEMA–B–1802	
City of Grovetown	City Hall, 103 Old Wrightsboro Road, Grovetown, GA 30813.
City of Harlem	City Hall, 320 North Louisville Street, Harlem, GA 30814.
Unincorporated Areas of Columbia County	Columbia County Environmental Services Department, Engineering Services Division, 630 Ronald Reagan Drive, Building A, East Wing, Evans, GA 30809.
Floyd County, Georgia and Incorporated Areas Docket No.: FEMA–B–1753	
City of Rome	City Hall, 601 Broad Street, Rome, GA 30161.
Unincorporated Areas of Floyd County	Historic Floyd County Courthouse, 4 Government Plaza, Rome, GA 30161.
Forsyth County, Georgia and Incorporated Areas Docket No.: FEMA–B–1753	
Unincorporated Areas of Forsyth County	Forsyth County Administrative Building, 110 East Main Street, Suite 120, Cumming, GA 30040.
Paulding County, Georgia and Incorporated Areas Docket No.: FEMA–B–1753	
City of Dallas	City Hall, 129 East Memorial Drive, Dallas, GA 30132.
Unincorporated Areas of Paulding County	Paulding County Development Division, 240 Constitution Boulevard, 1st Floor, Dallas, GA 30132.
Polk County, Georgia and Incorporated Areas Docket No.: FEMA–B–1753	
City of Rockmart	City Hall, 316 North Piedmont Avenue, Building 100, Rockmart, GA 30153.
Unincorporated Areas of Polk County	Polk County Building Inspection Department, 144 West Avenue, Suite C, Cedartown, GA 30125.
Canyon County, Idaho and Incorporated Areas Docket No.: FEMA–B–1703	
City of Caldwell	City Hall, 621 Cleveland Boulevard, 2nd Floor, Caldwell, ID 83605.
City of Middleton	City Hall, 1103 West Main Street, Middleton, ID 83644.
City of Notus	City Hall, 375 Notus Road, Notus, ID 83656.
City of Parma	City Hall, 305 North 3rd Street, Parma, ID 83660.
City of Star	City Hall, 10769 West State Street, Star, ID 83669.
Unincorporated Areas of Canyon County	Canyon County Administration Building, 111 North 11th Avenue, Room 101, Caldwell, ID 83605.
Erie County, New York (All Jurisdictions) Docket No.: FEMA–B–1800	
Town of Amherst	Amherst Town Hall, 5583 Main Street, Williamsville, NY 14221.

Community	Community map repository address
Canadian County, Oklahoma and Incorporated Areas Docket No.: FEMA–B–1771	
City of Piedmont	City Hall, 314 Edmond Road Northwest, Piedmont, OK 73078.
Garfield County, Oklahoma and Incorporated Areas Docket No.: FEMA–B–1771	
City of Enid	City Hall, 401 West Owen K. Garriott Road, Enid, OK 73701.
Unincorporated Areas of Garfield County	Garfield County Courthouse, 114 West Broadway, Room 105, Enid, OK 73701.
Kingfisher County, Oklahoma and Incorporated Areas Docket No.: FEMA–B–1771	
City of Kingfisher	City Hall, 301 North Main Street, Kingfisher, OK 73750.
Unincorporated Areas of Kingfisher County	Kingfisher County Courthouse, 101 South Main Street, Kingfisher, OK 73750.
Logan County, Oklahoma and Incorporated Areas Docket No.: FEMA–B–1771	
Unincorporated Areas of Logan County	Logan County Courthouse Annex, 312 East Harrison Street, Guthrie, OK 73044.
Jefferson County, Washington and Incorporated Areas Docket Nos.: FEMA–B–1659 and FEMA–B–1815	
City of Port Townsend	City Hall, 250 Madison Street, Suite 2, Port Townsend, WA 98368.
Hoh Indian Tribe	Hoh Indian Tribe Natural Resources Department, 2267 Lower Hoh Road, Forks, WA 98331.
Unincorporated Areas of Jefferson County	Jefferson County Department of Community Development, 621 Sheridan Street, Port Townsend, WA 98368.

[FR Doc. 2019–04871 Filed 3–14–19; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2019–0002]

Changes in Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: New or modified Base (1-percent annual chance) Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, and/or regulatory floodways (hereinafter referred to as flood hazard determinations) as shown on the indicated Letter of Map Revision (LOMR) for each of the communities listed in the table below are finalized. Each LOMR revises the Flood Insurance Rate Maps (FIRMs), and in some cases the Flood Insurance Study (FIS) reports, currently in effect for the listed communities. The flood hazard determinations modified by each LOMR will be used to calculate flood insurance premium rates for new buildings and their contents.

DATES: Each LOMR was finalized as in the table below.

ADDRESSES: Each LOMR is available for inspection at both the respective Community Map Repository address listed in the table below and online through the FEMA Map Service Center at *https://msc.fema.gov.*

FOR FURTHER INFORMATION CONTACT: Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov;* or visit the FEMA Map Information eXchange (FMIX) online at *https://www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) makes the final flood hazard determinations as shown in the LOMRs for each community listed in the table below. Notice of these modified flood hazard determinations has been published in newspapers of local circulation and 90 days have elapsed since that publication. The Deputy Associate Administrator for Insurance and Mitigation has resolved any appeals resulting from this notification.

The modified flood hazard determinations are made pursuant to section 206 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.,* and with 44 CFR part 65.

For rating purposes, the currently effective community number is shown and must be used for all new policies and renewals.

The new or modified flood hazard information is the basis for the floodplain management measures that the community is required either to adopt or to show evidence of being already in effect in order to remain qualified for participation in the National Flood Insurance Program (NFIP).

This new or modified flood hazard information, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities.

This new or modified flood hazard determinations are used to meet the floodplain management requirements of the NFIP and are used to calculate the appropriate flood insurance premium rates for new buildings, and for the contents in those buildings. The changes in flood hazard determinations are in accordance with 44 CFR 65.4.

Interested lessees and owners of real property are encouraged to review the final flood hazard information available at the address cited below for each community or online through the FEMA Map Service Center at *https://msc.fema.gov.*

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Michael M. Grimm,

Assistant Administrator for Risk Management, Department of Homeland Security, Federal Emergency Management Agency.

State and county	Location and case No.	Chief executive officer of community	Community map repository	Date of modification	Community No.
Colorado:					
Adams (FEMA Docket No.: B–1871).	City of Westminster (18–08–0635P).	The Honorable Herb Atchison, Mayor, City of Westminster, 4800 West 92nd Avenue, Westminster, CO 80031.	City Hall, 4800 West 92nd Avenue, Westminster, CO 80031.	Feb. 14, 2019	080008
Adams (FEMA Docket No.: B–1871).	Unincorporated areas of Adams County (18–08–0635P).	The Honorable Mary Hodge, Chair, Adams County Board of Commissioners, 4430 South Adams County Parkway, 5th Floor, Suite C5000A, Brighton, CO 80601.	Adams County Development Engineering Services Department, 4430 South Adams County Parkway, Brighton, CO 80601.	Feb. 14, 2019	080001
Larimer (FEMA Docket No.: B–1871).	City of Fort Collins (17–08–1354P).	The Honorable Wade Troxell, Mayor, City of Fort Collins, 300 LaPorte Avenue, Fort Collins, CO 80521.	Stormwater Utilities Department, 700 Wood Street, Fort Collins, CO 80521.	Feb. 21, 2019	080102
Larimer (FEMA Docket No.: B–1871).	Town of Timnath (17–08–1354P).	The Honorable Jill Grossman-Belisle, Mayor, Town of Timnath, 4800 Goodman Street, Timnath, CO 80547.	Town Hall, 4800 Goodman Street, Timnath, CO 80547.	Feb. 21, 2019	080005
Larimer (FEMA Docket No.: B–1871).	Unincorporated areas of Larimer County (17–08–1354P).	The Honorable Steve Johnson, Chairman, Larimer County Board of Commissioners, P.O. Box 1190, Fort Collins, CO 80522.	Larimer County Engineering Department, 200 West Oak Street, Suite 3000, Fort Collins, CO 80521.	Feb. 21, 2019	080101
Connecticut:					
Fairfield (FEMA Docket No.: B–1871).	City of Norwalk (18–01–1147P).	The Honorable Harry W. Rilling, Mayor, City of Norwalk, 125 East Avenue, Norwalk, CT 06851.	Planning and Zoning Department, 125 East Avenue, Norwalk, CT 06851.	Feb. 21, 2019	090012
Fairfield (FEMA Docket No.: B–1900).	Town of Darien (18–01–1839P).	The Honorable Jayme J. Stevenson, First Selectwoman, Town of Darien Board of Selectmen, 2 Renshaw Road, Darien, CT 06820.	Planning and Zoning Department, 2 Renshaw Road, Darien, CT 06820.	Feb. 25, 2019	090005
Fairfield (FEMA Docket No.: B–1866).	Town of Newtown (18–01–0540P).	The Honorable Dan Rosenthal, First Selectman, Town of Newtown Board of Selectmen, 3 Primrose Street, Newtown, CT 06470.	Town Hall, 3 Primrose Street, Newtown, CT 06470.	Feb. 19, 2019	090011
Florida:					
Lee (FEMA Docket No.: B–1871).	City of Sanibel (18–04–3740P).	The Honorable Kevin Ruane, Mayor, City of Sanibel, 800 Dunlop Road, Sanibel, FL 33957.	Planning and Code Enforcement Department, 800 Dunlop Road, Sanibel, FL 33957.	Feb. 19, 2019	120402
Monroe (FEMA Docket No.: B–1866).	City of Layton (18–04–5816P).	The Honorable Norman S. Anderson, Mayor, City of Layton, P.O. Box 778, Long Key, FL 33001.	Building Department, 68280 Overseas Highway, Long Key, FL 33001.	Feb. 8, 2019	120169
Monroe (FEMA Docket No.: B–1866).	City of Layton (18–04–5890P).	The Honorable Norman S. Anderson, Mayor, City of Layton, P.O. Box 778, Long Key, FL 33001.	Building Department, 68280 Overseas Highway, Long Key, FL 33001.	Feb. 14, 2019	120169
Monroe (FEMA Docket No.: B–1866).	Unincorporated areas of Monroe County (18–04–5923P).	The Honorable David Rice, Mayor, Monroe County Board of Commissioners, 9400 Overseas Highway, Suite 210, Marathon, FL 33050.	Monroe County Building Department, 2798 Overseas Highway, Suite 300, Marathon, FL 33050.	Feb. 19, 2019	125129
Monroe (FEMA Docket No.: B–1871).	Unincorporated areas of Monroe County (18–04–6042P).	The Honorable David Rice, Mayor, Monroe County Board of Commissioners, 9400 Overseas Highway, Suite 210, Marathon, FL 33050.	Monroe County Building Department, 9400 Overseas Highway, Suite 300, Marathon, FL 33050.	Feb. 22, 2019	125129
Monroe (FEMA Docket No.: B–1866).	Village of Islamorada (18–04–6933P).	The Honorable Chris Sante, Mayor, Village of Islamorada, 86800 Overseas Highway, Islamorada, FL 33036.	Planning and Development Department, 86800 Overseas Highway, Islamorada, FL 33036.	Feb. 19, 2019	120424
Pasco (FEMA Docket No.: B–1871).	Unincorporated areas of Pasco County (17–04–7747P).	The Honorable Mike L. Wells, Chairman, Pasco County Board of Commissioners, 8731 Citizens Drive, Suite 100, New Port Richey, FL 34654.	Pasco County Building and Construction Services Department, 8731 Citizens Drive, New Port Richey, FL 34654.	Feb. 28, 2019	120230
Pinellas (FEMA Docket No.: B–1866).	Town of Indian Shores (18–04–5445P).	The Honorable Patrick Soranno, Mayor, Town of Indian Shores, 19305 Gulf Boulevard, Indian Shores, FL 33785.	Building Department, 19305 Gulf Boulevard, Indian Shores, FL 33785.	Feb. 11, 2019	125118
Polk (FEMA Docket No.: B–1871).	Unincorporated areas of Polk County (18–04–5171P).	The Honorable R. Todd Dantzler, Chairman, Polk County Board of Commissioners, P.O. Box 9005, Bartow, FL 33831.	Polk County Administration Building, 330 West Church Street, Bartow, FL 33831.	Feb. 28, 2019	120261

State and county	Location and case No.	Chief executive officer of community	Community map repository	Date of modification	Community No.
Polk (FEMA Docket No.: B–1866).	Unincorporated areas of Polk County (18–04–6600P).	The Honorable R. Todd Dantzler, Chairman, Polk County Board of Commissioners, 330 West Church Street, Bartow, FL 33831.	Polk County Floodplain Department, 330 West Church Street, Bartow, FL 33831.	Feb. 14, 2019	120261
Louisiana: Morehouse (FEMA Docket No.: B–1866).	Unincorporated areas of Morehouse Parish (18–06–2764P).	The Honorable Terry Matthews, President, Morehouse Parish Police Jury, 125 East Madison Avenue, Bastrop, LA 71220.	Morehouse Parish Police Jury, 125 East Madison Avenue, Bastrop, LA 71220.	Feb. 11, 2019	220367
Maryland: Somerset (FEMA Docket No.: B–1871).	Unincorporated areas of Somerset County (18–03–1921P).	The Honorable Randy Laird, President, Somerset County Commission, 11916 Somerset Avenue, Room 111, Princess Anne, MD 21853.	Somerset County Department of Technical and Community Services, 11916 Somerset Avenue, Room 211, Princess Anne, MD 21853.	Feb. 28, 2019	240061
New Hampshire: Hillsborough (FEMA Docket No.: B–1871).	City of Manchester (18–01–0929P).	The Honorable Joyce Craig, Mayor, City of Manchester, 1 City Hall Plaza, Manchester, NH 03101.	Planning Department, 1 City Hall Plaza, Manchester, NH 03101.	Feb. 14, 2019	330169
New Mexico: Bernalillo (FEMA Docket No.: B–1866).	City of Albuquerque (18–06–1222P).	The Honorable Timothy M. Keller, Mayor, City of Albuquerque, P.O. Box 1293, Albuquerque, NM 87103.	Planning Department, 600 2nd Street Northwest, Albuquerque, NM 87102.	Feb. 11, 2019	350002
North Dakota: Stark (FEMA Docket No.: B–1866).	City of Dickinson (18–08–0776P).	The Honorable Scott Decker, Mayor, City of Dickinson, 99 2nd Street East, Dickinson, ND 58601.	City Hall, 99 2nd Street East, Dickinson, ND 58601.	Feb. 20, 2019	380117
South Carolina: York (FEMA Docket No.: B–1866).	Unincorporated areas of York County (18–04–1779P).	The Honorable Britt Blackwell, Chairman, York County Council, P.O. Box 66, York, SC 29745.	York County Heckle Complex, 1070 Heckle Boulevard, Suite 107, York, SC 29732.	Feb. 11, 2019	450193
South Dakota: Lawrence (FEMA Docket No.: B–1871).	City of Spearfish (18–08–0274P).	The Honorable Dana Boke, Mayor, City of Spearfish, 625 5th Street, Spearfish, SD 57783.	City Hall, 625 5th Street, Spearfish, SD 57783.	Feb. 25, 2019	460046
Texas:					
Denton (FEMA Docket No.: B–1871).	City of Denton (18–06–2351P).	The Honorable Chris A. Watts, Mayor, City of Denton, 215 East McKinney Street, Suite 100, Denton, TX 76201.	Engineering Services Department, 901–A Texas Street, Denton, TX 76509.	Feb. 25, 2019	480194
Denton (FEMA Docket No.: B–1871).	City of The Colony (18–06–1146P).	The Honorable Joe McCourry, Mayor, City of The Colony, 6800 Main Street, The Colony, TX 75056.	Engineering Department, 6800 Main Street, The Colony, TX 75056.	Feb. 19, 2019	481581
Denton (FEMA Docket No.: B–1871).	Town of Flower Mound (18–06–2274P).	The Honorable Steve Dixon, Mayor, Town of Flower Mound, 2121 Cross Timbers Road, Flower Mound, TX 75028.	Town Hall, 2121 Cross Timbers Road, Flower Mound, TX 75028.	Feb. 19, 2019	480777
Taylor (FEMA Docket No.: B–1871).	City of Abilene (18–06–0761P).	The Honorable Anthony Williams, Mayor, City of Abilene, P.O. Box 60, Abilene, TX 79604.	City Hall, 555 Walnut Street, Abilene, TX 79601.	Feb. 25, 2019	485450
Travis (FEMA Docket No.: B–1871).	City of Austin (18–06–1298P).	Mr. Spencer Cronk, Manager, City of Austin, P.O. Box 1088, Austin, TX 78767.	Watershed Protection Department, 505 Barton Springs Road, 12th Floor, Austin, TX 78704.	Feb. 25, 2019	480624
Travis (FEMA Docket No.: B–1866).	City of Pflugerville (18–06–0800P).	The Honorable Victor Gonzales, Mayor, City of Pflugerville, P.O. Box 589, Pflugerville, TX 78691.	Development Services Center, 201–B East Pecan Street, Pflugerville, TX 78691.	Feb. 11, 2019	481028
Travis (FEMA Docket No.: B–1866).	Unincorporated areas of Travis County (18–06–0800P).	The Honorable Sarah Eckhardt, Travis County Judge, P.O. Box 1748, Austin, TX 78767.	Travis County Transportation and Natural Resources Division, 700 Lavaca Street, Suite 540, Austin, TX 78701.	Feb. 11, 2019	481026
Travis (FEMA Docket No.: B–1871).	Unincorporated areas of Travis County (18–06–1298P).	The Honorable Sarah Eckhardt, Travis County Judge, P.O. Box 1748, Austin, TX 78767.	Travis County Transportation and Natural Resources Department, 700 Lavaca Street, 5th Floor, Austin, TX 78767.	Feb. 25, 2019	481026
Webb (FEMA Docket No.: B–1900).	Unincorporated areas of Webb County (18–06–2395P).	The Honorable Tano E. Tijerina, Webb County Judge, 1000 Houston Street, 3rd Floor, Laredo, TX 78040.	Webb County Planning Department, 1110 Washington Street, Suite 302, Laredo, TX 78040.	Feb. 12, 2019	481059
Virginia:					
Chesterfield (FEMA Docket No.: B–1871).	Unincorporated areas of Chesterfield County (18–03–1312P).	Mr. Joseph P. Casey, Administrator, Chesterfield County, P.O. Box 40, Chesterfield, VA 23832.	Chesterfield County Department of Environmental Engineering, 9800 Government Center Parkway, Chesterfield, VA 23832.	Feb. 26, 2019	510035
Independent City (FEMA Docket No.: B–1871).	City of Harrisonburg (18–03–1944P).	The Honorable Deanna R. Reed, Mayor, City of Harrisonburg, 409 South Main Street, Harrisonburg, VA 22801.	Department of Planning and Community Development, 409 South Main Street, Harrisonburg, VA 22801.	Feb. 14, 2019	510076

[FR Doc. 2019–04870 Filed 3–14–19; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–HQ–MB–2018–N159; FF09M13200, FXMB12330900000 (189); OMB Control Number 1018–0135]

Agency Information Collection Activities; Electronic Federal Duck Stamp Program

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, we, the U.S. Fish and Wildlife Service (Service), are proposing to renew an information collection.

DATES: Interested persons are invited to submit comments on or before May 14, 2019.

ADDRESSES: Send your comments on the information collection request (ICR) by mail to the Service Information Collection Clearance Officer, U.S. Fish and Wildlife Service, MS: BPHC, 5275 Leesburg Pike, Falls Church, VA 22041–3803 (mail); or by email to *Info_Coll@fws.gov.* Please reference OMB Control Number 1018–0135 in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: Madonna L. Baucum, Service Information Collection Clearance Officer, by email at *Info_Coll@fws.gov,* or by telephone at (703) 358–2503.

SUPPLEMENTARY INFORMATION: In accordance with the Paperwork Reduction Act of 1995, we provide the general public and other Federal agencies with an opportunity to comment on new, proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

We are soliciting comments on the proposed ICR that is described below. We are especially interested in public comment addressing the following issues: (1) Is the collection necessary to the proper functions of the Service; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Service enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Service minimize the burden of this collection on the respondents, including through the use of information technology.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this ICR. 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.

Abstract: On March 16, 1934, Congress passed, and President Franklin D. Roosevelt signed, the Migratory Bird Hunting Stamp Act (16 U.S.C. 718a *et seq.*). Popularly known as the Duck Stamp Act, it required all migratory waterfowl hunters 16 years of age or older to buy a Federal migratory bird hunting and conservation stamp (Federal Duck Stamp) annually. The stamps are a vital tool for wetland conservation. Ninety-eight cents out of every dollar generated by the sale of Federal Duck Stamps goes directly to purchase or lease wetland habitat for protection in the National Wildlife Refuge System. The Federal Duck Stamp is one of the most successful conservation programs ever initiated and is a highly effective way to conserve America's natural resources. Besides serving as a hunting license and a conservation tool, a current year's Federal Duck Stamp also serves as an entrance pass for national wildlife refuges where admission is charged. Duck Stamps and products that bear stamp images are also popular collector items.

The Electronic Duck Stamp Act of 2005 (Pub. L. 109–266) required the Secretary of the Interior to conduct a 3-year pilot program, under which States could issue electronic Federal Duck Stamps. This pilot program is now permanent with the passage of the Permanent Electronic Duck Stamp Act of 2013 (Pub. L. 113–239). Anyone, regardless of State residence, is able to purchase an electronic Duck Stamp through any State that participates in the program. The electronic stamp is valid for up to 45 days from the date of purchase and is available for immediate use while customers wait to receive the actual stamp in the mail. After 45 days, customers must carry the signed physical Federal Duck Stamp while hunting or to gain free access to national wildlife refuges.

Eight States participated in the pilot. At the end of the pilot, we provided a report to Congress outlining the successes of the program. The program improved public participation by increasing the ability of the public to obtain required Federal Duck Stamps.

Under our authorities in 16 U.S.C. 718 *et seq.,* we continued the Electronic Duck Stamp Program in the eight States that participated in the pilot. Currently, the expanded program includes 25 States. Several other States have indicated interest in participating, and we have had requests to continue to expand the program by inviting the remaining eligible State fish and wildlife agencies to apply to participate. Interested States must submit an application (FWS Form 3–2341). We will use the information provided in the application to determine a State's eligibility to participate in the program. Information includes, but is not limited to:

- Information verifying the current systems the State uses to sell hunting, fishing, and other associated licenses and products.
- Applicable State laws, regulations, or policies that authorize the use of electronic systems to issue licenses.
- Example and explanation of the codes the State proposes to use to create and endorse the unique identifier for the individual to whom each stamp is issued.
- Mockup copy of the printed version of the State's proposed electronic stamp, including a description of the format and identifying features of the licensee to be specified on the stamp.
- Description of any fee the State will charge for issuance of an electronic stamp.
- Description of the process the State will use to account for and transfer the amounts collected by the State that are required to be transferred under the program.
- Manner by which the State will transmit electronic stamp customer data.

Each State approved to participate in the program must provide the following information on a weekly basis, to the Service approved stamp distribution company, in order for them to issue the actual stamp within the allotted 45-day period:

- Full name (first, middle, last and any prefixes/suffixes), and complete mailing address of each individual that purchases an electronic stamp from the State.
- Date of e-stamp purchase.

Title of Collection: Electronic Federal Duck Stamp Program.

OMB Control Number: 1018–0135.

Form Number: FWS Form 3–2341.

Type of Review: Extension of a currently approved collection.

Respondents/Affected Public: State fish and wildlife agencies.

Respondent's Obligation: Required to obtain or retain a benefit.

Frequency of Collection: One time for applications, and an average of once every 9 days per respondent for fulfillment reports.

Total Estimated Annual Nonhour Burden Cost: None.

Requirement	Annual number of respondents	Total annual responses	Completion time per response (hours)	Total annual burden hours
Application	6	6	40	240
Fulfillment Report	33	1,353	1	1,353
Total	39	1,359		1,593

An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

The authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Dated: March 12, 2019.

Madonna Baucum,

Information Collection Clearance Officer, U.S. Fish and Wildlife Service.

[FR Doc. 2019–04828 Filed 3–14–19; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R8–NWRS–2013–0036; FXRS12610800000–190–FF08RSFC00]

South Farallon Islands Invasive House Mouse Eradication Project; Farallon Islands National Wildlife Refuge, California; Final Environmental Impact Statement

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; final environmental impact statement.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce the availability of a final environmental impact statement (EIS) for a proposed project to eradicate invasive, introduced house mice on the South Farallon Islands of the Farallon Islands National Wildlife Refuge in California. The final EIS describes the alternatives identified to eradicate house mice from the South Farallon Islands and eliminate their negative impacts to the ecosystem on these islands.

ADDRESSES: You may obtain copies of the final EIS in the following places:

- *Internet: http://www.regulations.gov* (Docket No. FWS–R8–NWRS–2013–0036).
- *In-Person:*
  - San Francisco Bay National Wildlife Refuge Complex Headquarters, 1 Marshlands Road, Fremont, CA 94555.
  - San Francisco Public Library, 100 Larkin Street, San Francisco, CA 94102.

FOR FURTHER INFORMATION CONTACT: Gerry McChesney, Refuge Manager, by phone at 510–792–0222, ext. 222; via email at *gerry_mcchesney@fws.gov;* or via the Federal Relay Service at 800–877–8339.

SUPPLEMENTARY INFORMATION: We, the U.S. Fish and Wildlife Service (Service), announce the availability of a final environmental impact statement (EIS) for a proposed project to eradicate invasive, introduced house mice (*Mus musculus*) on the South Farallon Islands of the Farallon Islands National Wildlife Refuge in California. This notice advises the public that the final EIS is now available to the public. The final EIS describes the alternatives identified to eradicate house mice from the South Farallon Islands and eliminate their negative impacts to the ecosystem of these islands.

National Environmental Policy Act

We are conducting environmental review for the proposed South Farallon Islands Invasive House Mouse Eradication Project in accordance with the requirements of the National Environmental Policy Act as amended (NEPA; 43 U.S.C. 4321 *et seq.*), its implementing regulations in 40 CFR 1500–1508, other applicable regulations, and our procedures for compliance with those regulations. On April 13, 2011, we published in the **Federal Register** a notice of intent to prepare an environmental impact statement (EIS) for the proposed project (76 FR 20706). We announced the availability of the draft EIS for public comment on August 16, 2013 (78 FR 50082). On October 25, 2013, we issued a revised draft EIS to clarify language on the population status of the ashy storm-petrel (*Oceanodroma homochroa*) and revise the assessment of impacts to the ashy storm-petrel under the no action alternative (78 FR 64002). In accordance with 40 CFR 1506.6, we now announce the availability of the final EIS.

In addition to our publication of this notice, the U.S. Environmental Protection Agency (EPA) is publishing a notice announcing the final EIS, as required under section 309 of the Clean Air Act (42 U.S.C. 7401 *et seq.*). The publication date of EPA's notice of availability in the **Federal Register** is the start of the 30-day wait period required for the final EIS. (See EPA's Role in the EIS Process, below, for further information.)

We will make a decision on the alternatives presented in the EIS no sooner than 30 days after the publication of the final EIS. We anticipate issuing a Record of Decision (ROD) in June 2019.

Background

In 2009, the Service completed a Comprehensive Conservation Plan (CCP) and Environmental Assessment/Finding of No Significant Impact to guide the management of the Farallon Islands National Wildlife Refuge (Refuge) over a 15-year period. The wildlife management goal in the CCP is to protect, inventory, and monitor, as well as to restore to historic levels, breeding populations of 12 seabird species, 5 marine mammal species, and other native wildlife. One of the strategies identified to meet this goal is the eradication of the non-native invasive house mouse from the South Farallon Islands, and the prevention of future introduction of mice.

We now propose to eradicate invasive house mice from the South Farallon Islands. We expect that eradicating invasive mice will benefit native seabirds, amphibians, terrestrial invertebrates, plants, and wilderness quality, and will help restore natural ecosystem processes on the islands. The South Farallon Islands have sustained

ecological damage over many decades from the presence of invasive mice. Eradicating house mice would eliminate the last remaining invasive vertebrate species on the Refuge, thereby enhancing the recovery of this unique and sensitive ecosystem.

Alternatives

We analyzed three alternatives in this final EIS:

Alternative A: No-Action Alternative

Under this alternative, we would not take any action to eradicate mice from the South Farallon Islands, maintaining the status quo. Native species and wilderness would continue to be impacted by invasive mice. However, other ongoing invasive species management programs on the South Farallon Islands would continue based on previous agency decisions. Low-intensity mouse control, primarily snap-trapping, currently occurs within and around the residences and other buildings on Southeast Farallon Island. These localized control efforts would continue under the no-action alternative, but the mouse population on the rest of the South Farallon Islands would not be subject to control efforts.

Under this alternative, we would also continue management activities focused on conserving storm-petrels, native plants, and their habitat on the islands, including invasive plant control and storm-petrel nesting habitat management. The current biosecurity measures would continue under this alternative, but these measures still could leave the Farallones at risk of additional invasions by non-native animal species.

Alternative B: Aerial Broadcast of Brodifacoum-25D Conservation (Preferred Alternative)

Under this alternative, the project area would be treated with the rodent bait Brodifacoum-25D Conservation. This bait is a cereal grain-based pellet (about 1 gram each) containing the rodenticide brodifacoum (25 ppm, or 0.0025 percent). Brodifacoum is typically effective after just one feeding by a mouse. The primary delivery of the bait would be through two aerial applications, with hand baiting and bait stations as a likely secondary means of bait delivery in selected areas. Bait applications would be separated by 10 to 21 days. The applications would take place between the months of October and December, with a most likely application period of November–December. The overall operational period is expected to be about six weeks long. Mitigation measures in this alternative consist of avoidance and minimization actions to limit adverse impacts to natural and cultural resources. For example, project timing is scheduled to occur outside seabird and marine mammal breeding seasons and when most wildlife populations are near annual minimums. We would implement a comprehensive gull hazing program in order to minimize the exposure of gulls to rodent bait. We would also capture and hold or translocate raptors present on the islands just prior to and during bait application. For precaution, a sample of Farallon arboreal salamanders (*Aneides lugubris farallonensis*) would be captured and held, then released back into the wild following bait degradation. To prevent bait drift into the marine environment, precision GPS techniques and a precision bait bucket will be utilized to keep bait application above the high tide line. Other mitigation measures include the possibility of using bait stations and hand broadcast of bait in certain high-risk areas, removing carcasses that may have been exposed to rodenticide, retrieving or crushing remaining rodent bait after it is no longer needed, minimizing wildlife disturbance during bait application, minimizing impacts to wilderness by using the minimum tools necessary for eradication, and protecting cultural resources during bait application. Monitoring of operational, mitigation, and ecosystem restoration objectives would be conducted before, during, and after the proposed mouse eradication. In addition, in order to minimize the risk of future rodent invasions, a biosecurity plan would be implemented prior to and in conjunction with the proposed eradication to prevent, detect and rapidly respond to potential future rodent incursions.

Alternative C: Aerial Broadcast of Diphacinone-50 Conservation

Under this alternative, the project area would be treated with the rodent bait Diphacinone-50 Conservation. This bait is a cereal grain-based pellet (about 1–2 grams each) containing the rodenticide diphacinone (50 ppm, or 0.0050 percent). Alternative C differs from Alternative B mainly in the type of rodenticide used for the proposed eradication, the number of applications that may be necessary, and the expected overall length of the operational period. To be effective, diphacinone requires multiple feedings by a mouse over several days. Under Alternative C, Diphacinone-50 Conservation would be broadcast primarily by helicopter, likely with some hand baiting and bait stations used in selected areas. The bait application would take place between the months of October and December, with most likely application in the November–December period. However, under Alternative C, we would need to broadcast a portion of the total amount of bait required during three applications, each separated by approximately 7 days. The overall operational period is expected to be about 16 weeks long. Alternative C would include the same mitigation measures described under Alternative B, as well as the monitoring program and the biosecurity plan.

EPA's Role in the EIS Process

The EPA is charged, under section 309 of the Clean Air Act, to review all Federal agencies' EISs and to comment on the adequacy and the acceptability of the environmental impacts of proposed actions in the EISs.

EPA also serves as the repository for EISs prepared by Federal agencies and provides notice of their availability in the **Federal Register**. The Environmental Impact Statement Database provides information about EISs prepared by Federal agencies, as well as EPA's comments concerning the EISs. All EISs are filed with EPA, which publishes a notice of availability on Fridays in the **Federal Register**.

The notice of availability is the start of the 30-day ''wait period'' for final EISs, during which agencies are generally required to wait 30 days before making a decision on a proposed action. For more information, see *https://www.epa.gov/nepa.* You may search for EPA comments on EISs, along with EISs themselves, at *https://cdxnodengn.epa.gov/cdx-enepa-public/action/eis/search.*

Paul Souza,

Regional Director, Pacific Southwest Region.

[FR Doc. 2019–04905 Filed 3–14–19; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–HQ–ES–2018–N154; MO# 300030113; OMB Control Number 1018–0165]

Agency Information Collection Activities; Implementing Regulations for Petitions

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, we, the U.S. Fish and Wildlife Service, are

proposing to renew an information collection.

DATES: Interested persons are invited to submit comments on or before May 14, 2019.

ADDRESSES: Send your comments on the information collection request (ICR) by mail to the Service Information Collection Clearance Officer, U.S. Fish and Wildlife Service, MS: BPHC, 5275 Leesburg Pike, Falls Church, VA 22041–3803; or by email to *Info_Coll@fws.gov.* Please reference OMB Control Number 1018–0165 in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: Madonna L. Baucum, Service Information Collection Clearance Officer, by email at *Info_Coll@fws.gov,* or by telephone at (703) 358–2503.

SUPPLEMENTARY INFORMATION: In accordance with the Paperwork Reduction Act of 1995, we provide the general public and other Federal agencies with an opportunity to comment on new, proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

We are soliciting comments on the proposed ICR that is described below. We are especially interested in public comment addressing the following issues: (1) Is the collection necessary to the proper functions of the Service; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Service enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Service minimize the burden of this collection on the respondents, including through the use of information technology.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this ICR. 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.

Abstract: The Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), specifies the process by which the U.S. Fish and Wildlife Service and the National Marine Fisheries Service (Services, we) make decisions on listing, delisting, or changing the status of a listed species, or revising critical habitat. Any interested person may submit a written petition to the Services requesting to add a species to the Lists of Endangered and Threatened Wildlife and Plants (Lists), remove a species from the Lists, change the listed status of a species, or revise the boundary of an area designated as critical habitat. The petition process is a central feature of the ESA and serves a beneficial public purpose.

Petitions

Information collected from petitioners used to determine whether to list a species includes:

(1) Petitioner's name; signature; address; telephone number; and association, institution, or business affiliation;

(2) Scientific and any common name of the species that is the subject of the petition;

(3) Clear indication of the administrative action the petitioner seeks (*e.g.,* listing of a species or revision of critical habitat);

(4) Detailed narrative justification for the recommended administrative action that contains an analysis of the supporting information presented;

(5) Literature citations that are specific enough for the Services to locate the supporting information cited by the petition, including page numbers or chapters, as applicable;

(6) Electronic or hard copies of supporting materials (*e.g.,* publications, maps, reports, letters from authorities) cited in the petition;

(7) For petitions to list, delist, or reclassify a species:

- Information to establish whether the subject entity is a ''species'' as defined in the ESA;
- Information on the current geographic range of the species, including range States or countries; and
- Copies of notification letters to States (explained in more detail below);

(8) Information on current population status and trends and estimates of current population sizes and distributions, both in captivity and the wild, if available;

(9) Identification of the factors under section 4(a)(1) of the ESA that may affect the species and where these factors are acting upon the species;

(10) Whether any or all of the factors alone or in combination identified in section 4(a)(1) of the ESA may cause the species to be an endangered species or threatened species (*i.e.,* place the species in danger of extinction now or in the foreseeable future), and, if so, how, including a description of the magnitude and imminence of the threats to the species and its habitat;

(11) Information on existing regulatory protections and conservation activities that States or other parties have initiated or have put in place that may protect the species or its habitat;

(12) For petitions to revise critical habitat:

- Description and map(s) of areas that the current designation (a) does not include that should be included or (b) includes that should no longer be included, and the rationale for designating or not designating these specific areas as critical habitat. Petitioners should include sufficient supporting information to substantiate the requested changes, which may include GIS data or boundary layers that relate to the request, if appropriate;
- Description of physical or biological features essential for the conservation of the species and whether they may require special management considerations or protection;
- For any areas petitioned to be added to critical habitat within the geographical area occupied by the species at the time it was listed, information indicating that the specific areas contain the physical or biological features that are essential to the conservation of the species and may require special management considerations or protection. The petitioner should also indicate which specific areas contain which features;
- For any areas petitioned for removal from currently designated critical habitat within the geographical area occupied by the species at the time it was listed, information indicating that the specific areas do not contain the physical or biological features that are essential to the conservation of the species, or that these features do not require special management consideration or protections; and
- For areas petitioned to be added to or removed from critical habitat that were outside the geographical area occupied by the species at the time it was listed, information indicating why the petitioned areas are or are not essential for the conservation of the species; and

(13) A complete, balanced representation of the relevant facts, including information that may contradict claims in the petition.

Notification of States

For petitions to list, delist, or change the status of a species, or for petitions to revise critical habitat, petitioners must provide notice to the State agency responsible for the management and conservation of fish, plant, or wildlife resources in each state where the species that is the subject of the petition occurs of their intention to submit a petition. This notification must be made at least 30 days prior to submission of the petition. Copies of the notification letters must be included with the petition. States may provide to the Service whatever information they want to be considered in the listing decisions.

Title of Collection: Implementing Regulations for Petitions, 50 CFR 424.14.

OMB Control Number: 1018–0165.

Form Number: None.

Type of Review: Extension of a currently approved collection.

Respondents/Affected Public: Individuals, businesses, or organizations.

Respondent's Obligation: Required to Obtain or Retain a Benefit.

Frequency of Collection: On occasion.

Total Estimated Annual Nonhour Burden Cost: $1,000.00 (for materials, printing, postage, data equipment maintenance, etc.).

Requirement	Annual number of respondents	Average number of responses each	Annual number of responses	Average completion time per response (hours)	Estimated annual burden hours
Petitioner—Prepare and Submit Petitions (50 CFR 424.14(c), (d), (e), and (g)					
Individuals	10	1	10	120	1,200
Private Sector	40	1	40	120	4,800
Petitioner—Notify States (50 CFR 424)					
Individuals	100	1	100	1	100
Private Sector	400	1	400	1	400
Totals:	*550*	.....	*550*	.....	*6,500*

An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

The authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Dated: March 11, 2019.

Madonna Baucum,

Information Collection Clearance Officer, U.S. Fish and Wildlife Service.

[FR Doc. 2019–04805 Filed 3–14–19; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R4–ES–2019–N021; FXES11140400000–178–FF04EF2000]

Receipt of Incidental Take Permit Application and Proposed Habitat Conservation Plan for the Sand Skink and Blue-Tailed Mole Skink, Polk County, FL; Categorical Exclusion

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; request for comments and information.

SUMMARY: We, the Fish and Wildlife Service (Service), announce receipt of an application from Nucor Steel Florida, Inc. (applicant), for an incidental take permit (ITP) under the Endangered Species Act. The applicant requests the ITP to take the federally listed sand skink and blue-tailed mole skink incidental to construction in Polk County, Florida. We request public comment on the application, which includes the applicant's proposed habitat conservation plan (HCP) and the Service's preliminary determination that this HCP qualifies as ''low-effect,'' categorically excluded under the National Environmental Policy Act. To make this determination, we used our environmental action statement and low-effect screening form, both of which are also available for public review.

DATES: We must receive your written comments on or before April 15, 2019.

ADDRESSES:

Obtaining Documents: You may obtain copies of the documents by any of the following methods:

- *Telephone:* Alfredo Begazo, 772–469–4234.
- *Email: alfredo_begazo@fws.gov.*
- *U.S. mail:* Alfredo Begazo, South Florida Ecological Services Office, Attn Nucor Steel Florida, Inc., Permit TE12906D, U.S. Fish and Wildlife Service, 1339 20th Street, Vero Beach, FL 32960–3559.
- *In-person:* The documents may be reviewed by appointment during normal business hours at the above address. Please call to make an appointment.
- *Fax: Alfredo Begazo,* 772–562–4288.

Submitting Comments: If you wish to submit comments on any of the documents, you may do so in writing via the above email address, U.S. mail address, or fax number, or you may hand-deliver comments to the above address during regular business hours.

FOR FURTHER INFORMATION CONTACT: Alfredo Begazo, by U.S. mail (see **ADDRESSES**) or via phone at 772–469–4234. Individuals who are hearing impaired or speech impaired may call the Federal Relay Service at 800–877–8339 for TTY assistance.

SUPPLEMENTARY INFORMATION: We, the Fish and Wildlife Service (Service), announce receipt of an application from Nucor Steel Florida, Inc. (applicant), for an incidental take permit (ITP) under the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*). The applicant requests the ITP to take the federally listed sand skink (*Neoseps reynoldsi*) and blue-tailed mole skink (*Eumeces egregious*) (skinks) incidental to the construction of a metal recycling steel plant (project) in Polk County, Florida. We request public comment on the application, which includes the applicant's proposed habitat conservation plan (HCP) and the Service's preliminary determination that this HCP qualifies as ''low-effect,'' categorically excluded under the National Environmental Policy Act (NEPA; 42 U.S.C. 4321 *et seq.*). To make this determination, we used our environmental action statement and low-effect screening form, both of which are also available for public review.

Project

Nucor Steel Florida, Inc. requests a 5-year ITP to take skinks incidental to the conversion of approximately 4.68 acres of occupied skink foraging and sheltering habitat for the construction and operation of a metal recycling steel plant located on a 183.77-acre parcel in Section 33, Township 32 South, Range 28 East, Polk County, Florida. The applicant proposes to mitigate for take of the skinks by purchasing credits equivalent to 9.36 acres of skink-occupied habitat from a Service-approved mitigation bank in Polk County. The Service would require the applicant to purchase the credits prior to engaging in land clearing activities on the parcel.

Public Availability of Comments

Before including your address, phone number, email address, or other personal identifying information in your comment, be aware that your entire comment—including your personal identifying information—may be made available to the public. While you may request that we withhold your personal identifying information, we cannot guarantee that we will be able to do so.

Our Preliminary Determination

The Service has made a preliminary determination that the applicant's project, including land clearing, construction of the plant, and the proposed mitigation measure, would individually and cumulatively have a minor or negligible effect on the skinks and the environment. Therefore, we have preliminarily concluded that the ITP for this project would qualify for categorical exclusion and the HCP is low effect under our NEPA regulations at 43 CFR 46.205 and 46.210. A low-effect HCP is one that would result in (1) minor or negligible effects on federally listed, proposed, and candidate species and their habitats; (2) minor or negligible effects on other environmental values or resources; and (3) impacts that, when considered together with the impacts of other past, present, and reasonable foreseeable similarly situated projects, would not over time result in significant cumulative effects to environmental values or resources.

Next Steps

The Service will evaluate the application and the comments received to determine whether to issue the requested permit. We will also conduct an intra-Service consultation pursuant to section 7 of the ESA to evaluate the effects of the proposed take. After considering the above findings, we will determine whether the permit issuance criteria of section 10(a)(1)(B) of the ESA have been met. If met, the Service will issue ITP number TE12906–D to Nucor Steel Florida, Inc.

Authority

The Service provides this notice under section 10(c) (16 U.S.C. 1539(c)) of the ESA and NEPA regulation 40 CFR 1506.6.

Roxanna Hinzman,

Field Supervisor, South Florida Ecological Services Office.

[FR Doc. 2019–04811 Filed 3–14–19; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLNVW03500.L51050000.EA0000. LVRCF1705210.17X MO#4500132137]

Notice of Availability of the Draft Environmental Impact Statement for the Black Rock City LLC's Burning Man Special Recreation Permit Renewal in Pershing, County, Nevada

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Availability.

SUMMARY: In compliance with the National Environmental Policy Act of 1969, as amended (NEPA), and the Federal Land Policy and Management Act of 1976, as amended, the Bureau of Land Management (BLM) Black Rock Field Office, Winnemucca, Nevada have prepared a Draft Environmental Impact Statement (EIS) and by this notice are announcing the beginning of the public comment period to solicit public comments on the Draft EIS. The BLM is the lead agency in development of the Draft EIS and will be evaluating Black Rock City LLC's (BRC) request for a 10-year Special Recreation Permit (SRP) for the Burning Man Event in Pershing County, Nevada.

DATES: This notice initiates the public comment period for the Draft EIS. Comments may be submitted in writing until April 29, 2019. The date(s) and location(s) of any comment meetings will be announced at least 15 days in advance through local media, newspapers and the BLM website at: *https://go.usa.gov/xEmSY.* In order to be included in the Draft EIS, all comments must be received prior to the close of the 45-day public comment period. We will provide additional opportunities for public participation upon publication of the Final EIS.

ADDRESSES: You may submit comments related to the Black Rock City LLC's Burning Man Special Recreation Permit Renewal Draft EIS by any of the following methods:

Burning Man Special Recreation Permit Renewal Draft EIS:

- *Website: https://go.usa.gov/xEmSY.*
- *Email: blm_nv_burningmaneis@blm.gov.*
- *Fax:* (775) 623–1741.
- *Mail:* Winnemucca District Office, 5100 East Winnemucca Boulevard, Winnemucca, NV 89445.

The Draft EIS may be viewed on the website listed above. Copies of the Draft EIS are available for viewing in the BLM Winnemucca District Office at the above address; and at the BLM Nevada State Office, 1340 Financial Boulevard, Reno Nevada 89502.

FOR FURTHER INFORMATION CONTACT: For questions about the proposed SRP renewal contact Mark Hall—Black Rock Field Office Field Manager, telephone: (775) 623–1500, address: 5100 East Winnemucca Boulevard, Winnemucca, Nevada 89445. Contact Mark Hall to have your name added to our mailing list. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service (FRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The applicant, BRC, has applied for a 10-year SRP under 43 CFR 2930 and has submitted a proposal to conduct the Burning Man event on public lands administered by the BLM Black Rock Field Office. BRC's proposal includes the following:

- Population increase to permit up to 100,000 total persons at the event;
- Expansion of the BLM Closure Order boundary by 561 acres, to a total of 14,714 acres;
- Creation of alternative transportation (Burner Express Bus/ Burner Express Air);
- Expansion of the perimeter fence to 10.4 miles total length;
- Arrival of as many as 30,000 staff and builders one week prior to opening;
- Expansion of Black Rock City to 1,250 acres;
- Installation of additional interactive camps;
- Installation of additional large scale art pieces;
- BRC licensing of art cars and ADA compliant vehicles to drive on the playa during event week;
- Use of approximately 16.5 million gallons of water per year would be

obtained from private groundwater wells, located at Fly Ranch owned by BRC, for dust abatement and in support of event activities; and

- BRC management of vendor and compliance monitoring.

The Draft EIS describes and analyzes the proposed Project's direct, indirect, and cumulative impacts on all affected resources. In addition to the Proposed Action (Alternative A), the following alternatives are also analyzed in the document: The Reduced Population (50,000 participants) Alternative B, The Alternate Site Alternative (Alternative C, moves the Event northeast of its' current location); The No Population Change (80,000 participants) Alternative (Alternative D) would keep the population as it was in 2017 and 2018; and the No Permit Alternative (Alternative E).

In December 2017, pre-scoping meetings were held in northern Nevada in Gerlach, Lovelock, and Reno. During those meetings the public was asked to submit comments regarding BRC's SRP renewal. The pre-scoping comment period received 77 comment letters.

On June 20, 2018, an initial Notice of Intent was published in the **Federal Register** inviting scoping comments on the Proposed Action. A total of 327 scoping comment letters were received for the 45-day public scoping period. A total of 404 scoping comment letters were received during the two public scoping periods. Concerns raised included impacts to air quality, cultural resources, environmental justice, and transportation, Native American religious concerns, recreation, visual resources including Night Skies, wastes and materials (hazardous and solid), water resources, vegetation, wildlife, and Public Health and Safety.

The BLM has utilized and coordinated the NEPA scoping and comment process to help fulfill the public involvement requirements under the National Historic Preservation Act (NHPA) (54 U.S.C. 306108) as provided in 36 CFR 800.2(d)(3)—and continues to do so. The information about historic and cultural resources within the area potentially affected by the proposed Project has assisted the BLM in identifying and evaluating impacts to such resources in the context of both NEPA and Title 54 of the NHPA.

The BLM has consulted and will continue to consult with Indian tribes on a government-to-government basis in accordance with Executive Order 13175 and other policies. Tribal concerns, including impacts to Indian trust assets and potential impacts to cultural resources have been analyzed in the Draft EIS. Federal, State, and local agencies, along with tribes and other stakeholders that may be interested in or affected by the proposed Project that the BLM is evaluating, are invited to participate in the comment process.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Authority: 40 CFR 1501.7.

Mark Hall,

Field Manager, Black Rock Field Office.

[FR Doc. 2019–04888 Filed 3–14–19; 8:45 am]

BILLING CODE 4310–HC–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

[RR01113000, XXXR0680R1, RR.R0336A1R.7WRMP0032]

Notice of Availability of a Final Environmental Impact Statement for the Kachess Drought Relief Pumping Plant and Keechelus Reservoir-to-Kachess Reservoir Conveyance, Kittitas and Yakima Counties, Washington

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of availability.

SUMMARY: The Bureau of Reclamation and Washington State Department of Ecology (Ecology) have prepared and made available the Kachess Drought Relief Pumping Plant and Keechelus Reservoir-to-Kachess Reservoir Conveyance Final Environmental Impact Statement (FEIS).

DATES: Reclamation will not make a decision on the proposed action until at least 30 days after the Environmental Protection Agency publishes a notice of availability for this FEIS in the **Federal Register**. Following this 30-day period, Reclamation may complete a Record of Decision (ROD). The ROD will identify all the alternatives considered, including the environmentally preferable alternative and the action selected for implementation, if they are not the same. The ROD will also discuss the factors and rationale used in making the decision; provide information on the adopted means to avoid, minimize and compensate for environmental impacts; describe any monitoring and enforcement program to ensure that adopted mitigation is accomplished; and address any significant comments received on the FEIS.

ADDRESSES: Written comments or requests for copies of the FEIS should be addressed to Ms. Candace McKinley, Bureau of Reclamation, 1917 Marsh Road, Yakima, WA 98901, 509–573–8193 or via email to *kkbt@usbr.gov.* The FEIS is also accessible on the following websites: *http://www.usbr.gov/pn/programs/eis/kdrpp/index.html* and *http://www.usbr.gov/pn/programs/eis/kkc/index.html.*

FOR FURTHER INFORMATION CONTACT: Ms. Candace McKinley, (509) 573–8193 or by email at *kkbt@usbr.gov.*

SUPPLEMENTARY INFORMATION: The Bureau of Reclamation published a Notice of Availability of a Draft EIS (DEIS) for the ''Kachess Drought Relief Pumping Plant and Keechelus Reservoir-to-Kachess Reservoir Conveyance'' in the **Federal Register** on January 9, 2015 (80 FR 1431). This was previously identified in the Notice of Intent to Prepare an EIS as the ''Keechelus Reservoir-to-Kachess Reservoir Conveyance and Kachess Inactive Storage.'' The name was changed to better reflect the proposed action and alternatives evaluated. The public comment period concluded on June 15, 2015. A Supplemental DEIS was released for public comment on April 13, 2018. The public comment period ended July 12, 2018. The FEIS, entitled, ''Kachess Drought Relief Pumping Plant and Keechelus Reservoir-to-Kachess Reservoir Conveyance Final Environmental Impact Statement,'' addresses the impacts associated with the Kachess Drought Relief Pumping Plant (KDRPP) and Keechelus Reservoir-to-Kachess Reservoir Conveyance (KKC) by expanding on the analysis conducted in the Yakima River Basin Integrated Water Resource Management Plan (Integrated Plan) Programmatic Environmental Impact Statement (March 2012).

The FEIS evaluates construction and operation of three alternative designs and locations for KDRPP, including reservoir intakes and tunnels, pumping plants and pump units, pipelines, surge tanks, outlet works, fish screens and barriers, power supply substations, and electric transmission lines. The FEIS also evaluates construction and operation of the KKC as a component of KDRPP, including the Yakima River diversion and intake, fish screen, bored tunnel, and spillway and stilling basin.

The primary study area generally encompasses Kachess Reservoir and its

tributaries, Keechelus Reservoir and its tributaries, the Kachess River, the Yakima River between Keechelus Dam and the Easton Diversion Dam near Lake Easton, and the electric transmission line route from near Easton to the Kachess Reservoir pumping plant. The extended study area generally includes the Yakima Project vicinity.

Authority

The Kachess and Keechelus Reservoirs were authorized on December 12, 1905, by the Secretary of the Interior in connection with the Tieton and Sunnyside Divisions of the Yakima Project. The Secretary was acting under authority of the Reclamation Act of June 17, 1902. The Yakima River Basin Water Enhancement Project was authorized on December 28, 1979 (93 Stat. 1241, Pub. L. 96–162, Feasibility Study—Yakima River Basin Water Enhancement Project). Title XII of the Yavapai-Prescott Indian Tribe Water Rights Settlement Act of 1994 (108 Stat. 4526 Pub. L. 103–434) authorized fish, wildlife, and recreation as additional purposes of the Yakima Project.

Public Review of FEIS

Copies of the FEIS are available for public review at the following locations:

1. Bureau of Reclamation, Columbia-Cascades Area Office, 1917 Marsh Road, Yakima, Washington 98901.

2. Washington State Department of Ecology, 15 W Yakima Avenue, Suite 200, Yakima, Washington 98902.

Public Disclosure

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.

Lorri J. Gray,

Regional Director, Pacific Northwest Region.

[FR Doc. 2019–04295 Filed 3–14–19; 8:45 am]

BILLING CODE 4332–90–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

[S1D1S SS08011000 SX064A000 190S180110; S2D2S SS08011000 SX064A00 19XS501520]

Notice of Record of Decision for the West Elk Mine Mining Plan Modification

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Notice of record of decision.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSMRE) announces its decision to adopt the U.S. Forest Service (USFS) Supplemental Final Environmental Impact Statement (SFEIS) for Federal Coal Lease Modifications COC–1362 and COC–67232 (including on-lease exploration plan) at the West Elk Mine located in Gunnison County, CO. In accordance with Section 102 of the National Environmental Policy Act of 1969 (''NEPA''), the Council on Environmental Quality's (''CEQ'') regulations implementing NEPA, and other applicable authorities, OSMRE has conducted an independent review and evaluation of the USFS's SFEIS for Federal Coal Lease Modifications COC–1362 and COC–67232 (including on-lease exploration plan) at the West Elk Mine dated August 2017.

As a cooperating agency with responsibility for the Federal Lands Program and the preparation of mining plan decision documents for review by the Assistant Secretary for Land and Minerals Management (ASLM), OSMRE provided subject matter expertise to the USFS during the environmental review process. Based on its independent review and evaluation, OSMRE has determined the SFEIS, including all supporting documentation, as incorporated by reference, adequately assesses and discloses the environmental impacts for the mining plan modification, and that adoption of the 2017 SFEIS by OSMRE is authorized under 40 CFR 1506.3, Adoption. Accordingly, OSMRE adopts the 2017 SFEIS, and takes full responsibility for the scope and content that addresses the proposed mining plan modification at West Elk Mine. Documents are available on OSMRE's website: *https://www.wrcc.osmre.gov/westElkMine.shtm.*

FOR FURTHER INFORMATION CONTACT: For further information about the Project, contact: Gretchen Pinkham, OSMRE Project Manager, at 303–293–5088 or by email at *osm-nepa-co@osmre.gov.* Persons who use a telecommunications device for the deaf may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION:

I. Background on the Project
II. Alternatives
III. Environmental Impact Analysis
IV. Decision

I. Background on the Project

As established by the Mineral Leasing Act (MLA) of 1920, the Surface Mining Control and Reclamation Act (SMCRA) of 1977, as amended (30 U.S.C. 1201–1328), and the Cooperative Agreement between the State of Colorado and the Secretary of the U.S. Department of the Interior (DOI) in accordance with Section 523(c) of SMCRA (30 U.S.C. 1273(c)), Mountain Coal Company's (MCC) Permit Application Package (PAP) (also referred to as Permit Revision 15 (PR 15)) must be reviewed by OSMRE and a mining plan modification approved by the Assistant Secretary for Land and Minerals Management (ASLM) before MCC may significantly disturb the environment in order to develop the Federal Coal Leases COC–1362 & COC–67232. The Colorado Division of Reclamation, Mining and Safety (CDRMS) is the SMCRA regulatory authority principally responsible for reviewing and approving PAPs. Under the MLA, OSMRE is responsible for making a recommendation to the ASLM about whether the proposed mining plan modification should be approved, disapproved, or approved with conditions (30 CFR 476.13). CDRMS approved the PAP for PR 15 on September 4, 2018.

It is OSMRE's decision to adopt the USFS Grand Mesa, Uncompahgre and Gunnison National Forests (GMUG) ''Federal Coal Lease Modifications COC–1362 & COC–67232 (including on-lease exploration plan)'' SFEIS (2017), as allowed under 40 CFR 1506.3. Consistent with the USFS decision, OSMRE is selecting Alternative 3, as described in the SFEIS (Section 2.2.3), based on the agencies consideration of: The purpose and need for the action; the issues; current policies and regulations; the analysis of alternatives contained in the SFEIS; public comments received and other information in the project record.

Alternative 3 as analyzed in the SFEIS would modify existing Federal coal leases COC–1362 and COC–67232 by

adding 800 and 920 additional acres (respectively). Under Alternative 3, the E seam would be mined containing approximately 10 million tons of recoverable coal. The leases would be mined using room and pillar development and longwall retreat mining recovery methods producing approximately 4.5 million tons per year and continuing mining operations by approximately 3 years. OSMRE received updated information regarding the anticipated site locations and surface disturbance acreage associated with PR–15 submitted to CDRMS. Under Alternative 3, approximately 54 acres of surface disturbance would occur on both Federal and private lands for the construction of mine ventilation boreholes (MVBs) and temporary roads.

OSMRE consulted with the Colorado State Historic Preservation Officer in compliance with Section 106 of the National Historic Preservation Act (NHPA) of 1966, as amended (54 U.S.C. 300101–307108), as provided for in 36 CFR part 800.2(d)(3) and providing for public involvement, as required. Consultations with Native American Tribes are being conducted in accordance with DOI policy.

As part of its consideration of impacts of the proposed Project on threatened and endangered species, OSMRE completed the Section 7 consultation process under the Endangered Species Act and received concurrence from USFWS that they have no concerns on August 8, 2018, pursuant to Section 7 of the Endangered Species Act (ESA) of 1973, as amended (16 U.S.C. 1531 *et seq.*) and its implementing regulations.

In addition to compliance with NEPA, NHPA Section 106, and ESA Section 7, all Federal actions will be in compliance with applicable requirements of the SMCRA; the CWA, 33 U.S.C. 1251–1387; the Clean Air Act of 1970, as amended, 42 U.S.C. 7401–7671q; the Native American Graves Protection and Repatriation Act of 1990, as amended, 25 U.S.C. 3001–3013; and all applicable laws, regulation, and Executive Order on topics such as Environmental Justice, Sacred Sites, and Tribal Consultation.

III. Alternatives

The analysis in the SFEIS considers direct, indirect, and cumulative impacts of the Proposed Action and two Alternatives. Alternatives for the Project that were analyzed in the SFEIS include:

(a) Alternative 1—No Action Alternative: This Alternative was identified as the environmentally preferable Alternative. Even though this is the No Action Alternative, currently permitted temporary road and pad construction and use would continue for about ten years under this alternative. Most of these uses are and would continue to be in the Sunset Roadless Area.

(b) Alternative 3—Preferred Alternative: Alternative 3 as analyzed in the SFEIS would modify existing Federal coal leases COC–1362 and COC-67232 by adding 800 and 920 additional acres (respectively). Under Alternative 3, the E seam would be mined containing approximately 10 million tons of recoverable coal. The leases would be mined using underground longwall mining techniques producing approximately 4.5 million tons per year and continuing mining operations by approximately 3 years (Federal and private reserves). OSMRE received updated information regarding the anticipated site locations and surface disturbance acreage associated with PR–15 submitted to CDRMS. Under Alternative 3, approximately 54 acres of surface disturbance would occur on both Federal and private lands for the construction of MVBs and temporary roads.

(c) Alternative 4: Under Alternative 4, the agencies would consent and lease the proposed modification to COC–1362 only, while not consenting to proposed modification to lease COC–67232. Alternative 4 analyzed the effects of post-lease surface activities under the Colorado Roadless Rule including temporary road construction in the Sunset Colorado Roadless Area, as described in Alternative 3 above. The on-lease exploration activities would remain similar to Alternative 3 except roads would stop at the lease modification boundary.

A wide range of additional Alternatives were considered by OSMRE but not carried forward for detailed analysis in the SFEIS. The following Alternatives were not analyzed in the SFEIS because they either did not meet the purpose and need of the Project or were not considered technically feasible or economically feasible or cost-effective:

- Alternative 2; [1]
- Helicopter drill Methane Drainage Wells (MDWs) in roadless area
- MDWs using horizontal boreholes or directional drilling technology
  - Directionally Drill MDWs from Outside Roadless
  - Use Horizontal Boreholes or Longhole Horizontal Boreholes
- Consideration of other mining methods
- Mitigate the potential Greenhouse Gas (GHG) emissions of the project by requiring MCC to use MDW ventilation air methane (VAM)
- Mitigate the potential GHG emissions of the project by requiring MCC to purchase of carbon credits or do off-set mitigations
- Mitigate the potential GHG emissions of the project by requiring MCC to use other potential methane mitigation measures
  - Methane Capture to Power On-Site Heaters
  - Methane Drainage Well Emissions Capture
  - MDW Capture, Electricity Production
  - MDW Capture, Sale Gas
  - Flaring (MDW Emissions)
  - Thermal Oxidation (VAM & MDW Emissions)
- Prevent all future disturbances from road construction, methane drainage well pads and the like in Roadless Areas
- Shrink the boundaries of the lease to conform to the area where the coal will be mined underground
- Protect values of the area by using this set of stipulations for the Proposed Action
  - No Surface Occupancy (NSO) stipulations prohibiting road and MDW well pad construction within ¼ mile of the hiking route known as ''Sunset Trail,'' which traverses the lease modification, to protect recreational values.
  - NSO stipulations prohibiting road and MDW well pad construction for all areas within ¼ mile of: (a) All lynx denning habitat; (b) all lynx winter foraging habitat; and (c) all lynx foraging habitat which is adjacent to lynx denning habitat.
  - NSO stipulations prohibiting road and MDW well pad construction for all areas within ¼ mile of a water influence zone.
  - NSO stipulations prohibiting road and MDW well pad construction for all areas within ½ mile of the West Elk Wilderness boundary, to protect roadless, wildlife, scenic, and other values.
  - NSO stipulations prohibiting road and MDW well pad construction within ¼ mile of any old growth forest to prevent fragmentation.
  - Until the Forest Plan is amended to address new information about the threat of climate change, the GMUG

[1] Under which the USFS would consent to and BLM would modify the leases with stipulations/notices/addendums above listed for the Action Alternatives but based on the provisions of the 2001 Roadless Area Conservation Rule (which is no longer in effect) road construction or reconstruction was prohibited. Although mining without construction of temporary roads may be physically possible, it may be limited by safety, technology, productivity, and expense (see SFEIS Section 2.3.1).

should protect existing mature forest through an NSO stipulation.
  - NSO stipulations prohibiting road and MDW well pad construction within ½ mile of any raptor nest site.
  - NSO stipulations prohibiting road and MDW well pad construction on slopes greater than 40% to protect soils and prevent erosion.
- For Exploration, use helicopters to transport drill rig
- For Exploration, do not consider redundant access
- For Exploration, analyze only the holes proposed to be drilled during the first field season

III. Environmental Impact Analysis

The SFEIS analyzes the potential environmental impacts to 18 different resource categories, including:

- Air Quality
- Climate Change
- Topographic and Physiographic Environment
- Geology and Soils
- Heritage Resources
- Watershed
- Vegetation
- Threatened and Endangered Species
- Sensitive Species
- Sensitive Plants
- Management Indicator Species
- Migratory Birds
- Range Resources
- Transportation System
- Roadless
- Recreation
- Socioeconomics
- Visual Resources

IV. Decision

In consideration of the information presented above, OSMRE approves the Record of Decision (ROD) adopting the USFS GMUG SFEIS and selects Alternative 3 (Consent to and Modification of the Leases) as the Preferred Alternative as described in the SFEIS (Section 2.2.3). USFS and the BLM included lease stipulations which were outlined by each agency in their RODs to minimize environmental impacts. On August 10, 2018, United States District Judge of the United States District Court for the District of Colorado, Philip A. Brimmer, found that the Agencies' decisions were affirmed in the *High Country Conservation Advocates* v. *Forest Service* (17–cv–03025–PAB). OSMRE understands that a notice of appeal has been submitted; however, the leases are in effect and it is appropriate for OSMRE to adopt the SFEIS. Accordingly, OSMRE recommends approval without conditions of the mining plan modification to the ASLM. This action can be implemented following approval of the mining plan modification by the ASLM.

Dated: February 26, 2019.

Marcelo Calle,

Acting Regional Director, Western Region.

[FR Doc. 2019–04839 Filed 3–14–19; 8:45 am]

BILLING CODE 4310–05–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

[S1D1S SS08011000 SX064A000 190S180110; S2D2S SS08011000 SX064A00 19XS501520]

Notice of Availability for the San Juan Mine Deep Lease Extension Mining Plan Modification Final Environmental Impact Statement

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Notice of availability.

SUMMARY: In accordance with the National Environmental Policy Act (NEPA) of 1969, as amended, the Office of Surface Mining Reclamation and Enforcement (OSMRE) has prepared a Final Environmental Impact Statement (EIS) for the San Juan Coal Company's (SJCC) proposed Deep Lease Extension (DLE) at the existing San Juan Mine (Project) in San Juan County, New Mexico. This Notice of Availability (NOA) serves to notify the public that the Final EIS has been prepared and is available for review. In developing the Final EIS, the OSMRE considered the public comments received on the Draft EIS.

ADDRESSES: You can download the Final EIS at the following OSMRE WR website: *https://www.wrcc.osmre.gov/sanJuanMine.shtm*.

Paper and electronic copies of the Final EIS are available for review at the OSMRE Western Region Office, 1999 Broadway Street, Suite 3320, Denver, Colorado 80202. In addition, a paper and electronic copy of the Final EIS is available for review at each of the following locations:

- Bureau of Land Management (BLM) Farmington Field Office—6251 College Blvd., Suite A, Farmington, NM 87402. Between the hours of 9:00 a.m. and 4:00 p.m. Monday through Friday (Closed Saturday and Sunday).
- Navajo Nation Library—Highway 264 Loop Road, Window Rock, AZ 86515. Between the hours of 8:00 a.m. and 5:00 p.m. Monday through Saturday (Closed Sunday).
- Albuquerque Main Library—501 Copper Ave. NW, Albuquerque, NM 87102. Between the hours of 10:00 a.m. and 6:00 p.m. Monday through Saturday (Closed Sunday).
- Cortez Public Library—202 N Park Street, Cortez, CO 81321. Between the hours of 9:00 a.m. and 7:00 p.m. Monday through Thursday; 9:00 a.m. and 4:00 p.m. Friday through Saturday (Closed Sunday).
- Durango Public Library—1900 E Third Ave., Durango, CO 81301. Between the hours of 8:00 a.m. and 8:00 p.m. Monday through Wednesday; 9:00 a.m. and 5:30 p.m. Thursday through Saturday (Closed Sunday).
- Farmington Public Library—2101 Farmington Ave., Farmington, NM 87401. Between the hours of 9:00 a.m. and 9:00 p.m. Monday through Thursday; 9:00 a.m. and 5:00 p.m. Friday through Saturday; and, 1:00 p.m. and 5:00 p.m. on Sunday.

FOR FURTHER INFORMATION CONTACT: For further information about the Project and/or to have your name added to the mailing list, contact: Gretchen Pinkham, OSMRE Project Manager, at 303–293–5088 or by email at *osm-nepa-nm@osmre.gov*. Persons who use a telecommunications device for the deaf may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION:

I. Background on the Project
II. Background on the San Juan Generating Station
III. Mining Plan Modification for the DLE
IV. Alternatives
V. Environmental Impact Analysis
VI. Public Comment Procedures

I. Background on the Project

As established by the Mineral Leasing Act (MLA) of 1920, the Surface Mining Control and Reclamation Act (SMCRA) of 1977, as amended (30 U.S.C. 1201–1328), and the Cooperative Agreement between the State of New Mexico and the Secretary of the U.S. Department of the Interior (DOI) in accordance with Section 523(c) of SMCRA (30 U.S.C. 1273(c)), SJCC's Permit Application Package (PAP) must be reviewed by the OSMRE and a mining plan modification approved by the Assistant Secretary for Land and Minerals Management (ASLM) before SJCC may significantly disturb the environment in order to develop the DLE Federal Coal Lease Tract NM–99144. The NM Mining and Minerals Division (NM MMD) is the SMCRA regulatory authority principally responsible for reviewing and approving

PAPs. Under the MLA, the OSMRE is responsible for making a recommendation to the ASLM about whether the proposed mining plan modification should be approved, disapproved, or approved with conditions (30 CFR 746.13). The NM MMD approved the PAP for the DLE on October 22, 1999. The ASLM first approved the mining plan modification for DLE Federal Coal Lease Tract NM–99144 on January 17, 2008, after receiving a recommendation from the OSMRE for approval that included a Finding of No Significant Impact signed by the OSMRE in 2007 and the Bureau of Land Management's (BLM) 1998 decision record on an amendment to the 1988 Farmington Resource Management Plan to include Federal Coal Lease Tract NM–99144.

The OSMRE's NEPA analysis supporting the 2008 mining plan modification was challenged in the U.S. District Court of New Mexico. *WildEarth Guardians* v. *U.S. Office of Surface Mining et al.,* Case 1:14–cv–00112–RJ–CG (D. NM) (amended petition filed March 14, 2014). On August 31, 2016, the Court granted the OSMRE's Motion for Voluntary Remand, which remanded the matter to the OSMRE to prepare an EIS within 3 years of the Court's order. The Final EIS available today has been prepared in accordance with the voluntary remand.

The San Juan Mine has contractual obligations to deliver approximately 3 million tons of coal per year to the San Juan Generating Station (Generating Station) from 2008 through 2022. Mining activities within the DLE have been ongoing since the OSMRE approval in 2008 and continue presently. Per the voluntary remand, mining operations within the DLE are allowed to proceed during the EIS process. However, the court-approved voluntary remand indicated that the Secretary's approval of the 2008 mining plan modification for the DLE would be vacated if the agency does not complete the required NEPA analysis in a timely manner. As a result, the OSMRE has prepared the Final EIS to re-evaluate its previous mining plan modification recommendation for this area. Among other information, the Final EIS considers (1) the PAP submitted to the OSMRE and NM MMD, and (2) new information available since the 2008 MPDD approval for potentially affected resources considered under direct, indirect, and cumulative analytical frameworks.

The DLE underground operations use longwall mining methods consisting of one longwall miner and two continuous miners (*i.e.,* pieces of equipment). The mine employed approximately 282 people in 2017. The mining plan modification would not add any acres of federal surface lands or any acres of federal coal to the approved permit area but would authorize the recovery of approximately 53 million tons of coal from 4,464.87 acres of federal coal and would add approximately 10 to 15 years to the life of the operation until 2033. For reasons discussed in sections II and III below, annual production rates of the mine are projected to be approximately 3 million tons per year in order to meet the contractual obligations with the Generating Station.

The BLM, U.S. Environmental Protection Agency (EPA), U.S. Fish and Wildlife Service (USFWS), and New Mexico MMD are Cooperating Agencies for this NEPA process. As the NEPA analysis proceeded, the OSMRE also consulted with the New Mexico State Historic Preservation Officer in compliance with Section 106 of the National Historic Preservation Act (NHPA) of 1966, as amended (54 U.S.C. 300101–307108), as provided for in 36 CFR part 800.2(d)(3) and providing for public involvement, as required. Consultations with Native American Tribes have been completed in accordance with DOI policy. OSMRE has completed the Section 106 process and has included the final stipulations in Section 3.4.4.1 of the TRD and the stipulations will be in effect once the ROD is signed.

As part of its consideration of impacts of the proposed Project on threatened and endangered species, the OSMRE initiated informal consultation with the USFWS on May 8, 2018, pursuant to Section 7 of the Endangered Species Act (ESA) of 1973, as amended (16 U.S.C. 1531 *et seq.*) and its implementing regulations. The consultation considered direct and indirect impacts from the proposed Project, including Project related coal combustion emissions from the Generating Station. On June 27, 2018, USFWS signed a letter concurring with OSMRE's findings in its Biological Assessment, completing the consultation process.

In addition to compliance with NEPA, NHPA Section 106, and ESA Section 7, all Federal actions will be in compliance with applicable requirements of the SMCRA; the Clean Water Act, 33 U.S.C. 1251–1387; the Clean Air Act of 1970, as amended, 42 U.S.C. 7401–7671q; the Native American Graves Protection and Repatriation Act of 1990, as amended, 25 U.S.C. 3001–3013; and all applicable laws, regulations, and Executive Orders on topics such as Environmental Justice, Sacred Sites, and Tribal Consultation.

II. Background on the San Juan Generating Station

The Generating Station, operated by the Public Service Company of New Mexico, is one of the largest coal-fired generating stations in the United States and provides power to customers in Arizona, New Mexico, and Utah. The Generating Station is located approximately 4 miles northeast of Waterflow, NM and 15 miles west of Farmington, NM. Pursuant to an agreement with the EPA, the Generating Station shut down two of the four energy generation units (Units 2 and 3) on December 19, 2017, decreasing the power output from approximately 1,800 megawatts to 910 megawatts (specifically, Units 2 and 3). The continued operation of Units 1 and 4 will require approximately 3 million tons of coal per year to produce the 910 megawatts.

III. Mining Plan Modification for the DLE

SJCC's mining plan modification would continue to develop the DLE, Federal Lease NM–99144, within the San Juan Mine. Due to the retirement of energy generating Units 2 and 3 at the Generating Station, the annual production rate of the DLE was reduced from the previous annual production rate of 6 million tons to an annual production rate of approximately 3 million tons beginning in 2017. Federal lease NM–99144 encompasses 4,464.87 acres and includes:

Township 30, North, Range 14 West, New Mexico Prime Meridian

Section 17: All;
Section 18: All;
Section 19: All;
Section 20: All;
Section 29: All;
Section 30: All; and portions of
Section 31: (Lots 1, 2, 3, and 4).

With the completion of the NEPA process (via publication of this Final EIS) and issuance of the Record of Decision no sooner than 30 days from today, OSMRE will submit a mining plan decision document to the ASLM that will recommend approval, disapproval, or approval with conditions of the proposed mining plan modification for the continuation or cessation of the San Juan Mine to mine the DLE within federal coal lease NM–99144. The ASLM will decide whether the mining plan modification is approved, disapproved, or approved with conditions.

IV. Alternatives

The analysis in the Final EIS considers direct, indirect, and

cumulative impacts of the Proposed Action and two Alternatives. Per 40 CFR 1501.7, the issues raised during the scoping period (March 22–May 8, 2017) were used to inform the analyses and identify the alternatives considered in the EIS. Alternatives for the Project that were analyzed in the Final EIS include:

• Alternative A—Proposed Action: As described above in Section I, second paragraph. The Proposed Action Alternative would be as approved from the time of the original PAP and initial approval of the mining plan modification in 2008 until 2033.

• Alternative B—Continuation of San Juan Mine Operations Following Generating Station Shut-Down in 2022: This alternative assumes that that the remaining units of the Generating Station shut down in 2022, but that mining continues at the DLE at the same rate (approximately 3 million tons annually) from 2023 through 2033. After 2023, this alternative assumes that either a new operator will purchase the Generating Station or the mine will send the coal to an unidentified coal-fired power plant. Without knowing the location of the end-use of the DLE coal, the Final EIS bounds the potential effects of combusting DLE coal at an unidentified power plant by relying on the analysis of effects at the San Juan Generating Station. Under Alternative B, the mining techniques would be identical to those for the Proposed Action.

• Alternative C—No Action Alternative: This alternative assumes that the OSMRE would recommend that the ASLM disapprove the mining plan modification for the DLE at the San Juan Mine, the ASLM disapproves of the mining plan modification, and mining ceases on August 31, 2019. Implementation of the No Action Alternative would result in the discontinuation of mining activities in the DLE on August 31, 2019, completion of all mining activities at the San Juan Mine in December 2019 and cessation of burning coal from San Juan Mine at the Generating Station approximately 6 months later. Under this alternative, SJCC would complete reclamation activities of all surface disturbance in accordance with its existing permit. Considering mining activities in the DLE have been ongoing since 2008 and have continued throughout the NEPA process, the baseline conditions for the No Action Alternative includes mining through August 2019.

A wide range of additional Alternatives were considered by the OSMRE but not carried forward for detailed analysis in the EIS. The following Alternatives were not analyzed in the EIS because they either did not meet the purpose and need of the Project or were not considered technically feasible or economically feasible or cost-effective:

- Alternative D—''Just'' Transition Alternative
- Alternative E—Alternative Panel Alignment, Timing or Sequence
- Alternative F—Continue to Mine at a Rate of 6 Million Tons Per Year
- Alternative G—Modifications to Underground Mining Technique
- Alternative H—Relocation of Portal Sites
- Alternative I—Alternative Coal Combustion Residue Disposal Sites

V. Environmental Impact Analysis

The Final EIS analyzes the potential environmental impacts to 16 different resource categories, including:

- Air Quality
- Climate Change
- Geology and Soils
- Archaeology and Cultural Resources
- Water Resources and Hydrology
- Vegetation
- Wildlife and Habitats
- Special Status Species
- Land Use, Transportation, and Agriculture
- Recreation
- Social and Economic Values
- Environmental Justice
- Visual Resources
- Noise and Vibration impacts
- Hazardous and Solid Wastes
- Public Health and Safety

VI. Public Comment Procedures

In accordance with the Council on Environmental Quality's regulations for implementing NEPA and the DOI's NEPA regulations, OSMRE solicited public comments on the Draft EIS. The comment period was held for over 45 days from May 25, 2018 to July 9, 2018. OSMRE held five public meetings in New Mexico and Colorado from June 25, 2018 to June 29, 2018. During the public comment period, over 3,000 comments on the Draft EIS were submitted. OSMRE considered these comments in developing the Final EIS.

Dated: March 1, 2019.

Marcelo Calle,

Acting Regional Director, Western Region.

[FR Doc. 2019–04833 Filed 3–14–19; 8:45 am]

BILLING CODE 4310–05–P

INTERNATIONAL TRADE COMMISSION

[USITC SE–19–004]

Government in the Sunshine Act Meeting Notice

AGENCY HOLDING THE MEETING: United States International Trade Commission.

TIME AND DATE: March 20, 2019 at 11:00 a.m.

PLACE: Room 101, 500 E Street SW, Washington, DC 20436. Telephone: (202) 205–2000.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agendas for future meetings: None.
2. Minutes.
3. Ratification List.
4. Vote on Inv. Nos. 701–TA–615–617 and 731–TA–1432–1434 (Preliminary) (Fabricated Structural Steel from Canada, China, and Mexico). The Commission is currently scheduled to complete and file its determinations on March 21, 2019; views of the Commission are currently scheduled to be completed and filed on March 28, 2019.
5. Vote on Inv. Nos. 701–TA–597 and 731–TA–1407 (Final) (Cast Iron Soil Pipe from China). The Commission is currently scheduled to complete and file its determinations and views of the Commission by April 3, 2019.
6. Outstanding action jackets: None.

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

By order of the Commission.

Issued: March 12, 2019.

William Bishop,

Supervisory Hearings and Information Officer.

[FR Doc. 2019–05020 Filed 3–13–19; 4:15 pm]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Inv. No. 337–TA–1148]

Certain Integrated Circuits and Products Containing the Same Institution of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice; Institution of Investigation Pursuant to 19 U.S.C. 1337.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on

December 19, 2018, under section 337 of the Tariff Act of 1930, as amended, on behalf of Tela Innovations, Inc. of Los Gatos, California. The complaint was amended on February 7, 2019. Supplements to the amended complaint were filed on February 13 and 26, 2019. The complaint, as amended, alleges violations of section 337 based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain integrated circuits and products containing the same by reason of infringement of certain claims of U.S. Patent No. 7,943,966 (''the '966 patent''); U.S. Patent No. 7,948,012 (''the '012 patent''); U.S. Patent No. 10,141,334 (''the '334 patent''); U.S. Patent No. 10,141,335 (''the '335 patent''); and U.S. Patent No. 10,186,523 (''the '523 patent''). The amended complaint further alleges that an industry in the United States exists as required by the applicable Federal Statute.

The complainant requests that the Commission institute an investigation and, after the investigation, issue a limited exclusion order and cease and desist orders.

ADDRESSES: The amended complaint, except for any confidential information contained therein, is available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW, Room 112, Washington, DC 20436, telephone (202) 205–2000. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at (202) 205–2000. General information concerning the Commission may also be obtained by accessing its internet server at *https://www.usitc.gov.* The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.*

FOR FURTHER INFORMATION CONTACT: Pathenia M. Proctor, The Office of Unfair Import Investigations, U.S. International Trade Commission, telephone (202) 205–2560.

SUPPLEMENTARY INFORMATION:

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 CFR 210.10 (2018).

Scope of Investigation: Having considered the amended complaint, the U.S. International Trade Commission, on March 8, 2019, *ordered that*—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain products identified in paragraph (2) by reason of infringement of one or more of claims 2, 32, and 33 of the '966 patent; claims 2, 27, and 28 of the '012 patent; claims 1, 2, 5, 6, 9, 11, 15, 20, and 24 of the '334 patent; claims 1, 2, 5, 6, 9, 11, 15, 20, and 24 of the '335 patent; and claims 1–12, 14–20, 22–24, and 26 of the '523 patent, and whether an industry in the United States exists as required by subsection (a)(2) of section 337;

(2) Pursuant to section 210.10(b)(1) of the Commission's Rules of Practice and Procedure, 19 CFR 210.10(b)(1), the plain language description of the accused products or category of accused products, which defines the scope of the investigation, is ''Intel's 14nm or smaller Tri-Gate integrated circuits and products that contain such Intel integrated circuits, specifically, microprocessors, modems, field programmable gate arrays (FPGAs), printed circuit boards, chipsets, laptops, desktops, computer tablets, all-in-one PCs, notebooks, servers, board-level computers, and board-level computer kits'';

(3) Pursuant to Commission Rule 210.50(b)(1), 19 CFR 210.50(b)(1), the presiding administrative law judge shall take evidence or other information and hear arguments from the parties and other interested persons with respect to the public interest in this investigation, as appropriate, and provide the Commission with findings of fact and a recommended determination on this issue, which shall be limited to the statutory public interest factors set forth in 19 U.S.C. 1337(d)(1), (f)(1), (g)(1);

(4) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is: Tela Innovations, Inc., 475 Alberto Way, Suite 120, Los Gatos, CA 95032.

(b) The respondents are the following entities alleged to be in violation of section 337, and are the parties upon which the amended complaint is to be served:

Acer, Inc., 1F, 88, Sec. 1, Xintai 5th Road, Xizhi, New Taipei City 221, Taiwan

Acer America Corporation, 333 West San Carlos Street, Suite 1500, San Jose, CA 95110

AsusTek Computer Inc., No. 15, Li-Te Road, Beitou District, Taipai 112, Taiwan

Asus Computer International, 800 Corporate Way, Fremont, CA 94539

Intel Corporation, 2200 Mission College Boulevard, Santa Clara, CA 95052

Lenovo Group Ltd., No. 6 Chuang Ye Road, Shangdi Information Industry Base, Beijing 100085, China

Lenovo (United States) Inc., 1009 Think Place, Morrisville, NC 27560

Micro-Star International Co., Ltd., No. 69, Lide Street, Zhonghe District, New Taipei City 235, Taiwan

MSI Computer Corp., 901 Canada Court, City of Industry, CA 91748

(c) The Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street SW, Suite 401, Washington, DC 20436; and

(5) For the investigation so instituted, the Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding Administrative Law Judge.

Responses to the amended complaint and the notice of investigation must be submitted by the named respondents in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 CFR 210.13. Pursuant to 19 CFR 201.16(e) and 210.13(a), such responses will be considered by the Commission if received not later than 20 days after the date of service by the Commission of the amended complaint and the notice of investigation. Extensions of time for submitting responses to the amended complaint and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the amended complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the amended complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the amended complaint and this notice and to enter an initial determination and a final determination containing such findings, and may result in the issuance of an exclusion order or a cease and desist order or both directed against the respondent.

By order of the Commission.

Issued: March 11, 2019.

Katherine Hiner,

Acting Secretary to the Commission.

[FR Doc. 2019–04784 Filed 3–14–19; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Notice of Extension of Public Comment Period for Consent Decree Under the Clean Air Act

On February 8, 2019, the Department of Justice lodged a proposed Consent Decree with the United States District Court for the Northern District of Alabama in the lawsuit entitled *United States et al.* v. *Drummond Company, Inc. d/b/a ABC Coke (Drummond),* Civil Action No. 2:19–cv–00240–AKK. The United States is joined in this matter by its co-plaintiff the Jefferson County Board of Health (JCBH). At the request of some members of the public, DOJ is extending the public comment period for an additional 30 days.

This case relates to alleged releases of benzene from Drummond's coke by-product recovery plant in Tarrant, Alabama (Facility). The case involves claims for civil penalties and injunctive relief under the Clean Air Act, 42 U.S.C. 7401 *et seq.,* and its implementing regulations known as National Emission Standards for Hazardous Air Pollutants (NESHAPs), including 40 CFR part 61, subpart L (Benzene Emissions from Coke By-product Recovery Plants), subpart V (Equipment Leaks and Fugitive Emissions), and subpart FF (Benzene Waste Operations), as well as related claims under laws promulgated by the Jefferson County Board of Health. The settlement resolves the alleged claims by requiring Drummond to, among other things: (1) Pay a civil penalty of $775,000 for the past alleged violations to be split equally between the United States and JCBH; (2) undertake fixes to the Facility to bring it into compliance; (3) implement a leak detection and repair program to ensure compliance and reduce potential future fugitive benzene emissions; and (4) implement a supplemental environmental project of two years of semi-annual use of an infrared camera as part of leak detection efforts at a cost of $16,000.

Notice of the lodging of the decree was originally published in the **Federal Register** on February 14, 2019. *See* 84 FR 4104 (February 14, 2019). The publication of the original notice opened a thirty (30) day period for public comment on the Decree. The publication of the present notice extends the period for public comment on the Decree to April 17, 2019.

Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States et al.* v. *Drummond Company, Inc. d/b/a ABC Coke,* D.J. Ref. No. 90–5–2–1–10717. All comments must be submitted no later than April 17, 2019. Comments may be submitted either by email or by mail:

To submit comments:	*Send them to:*
By email	*pubcomment-ees.enrd@usdoj.gov.*
By mail	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

During the public comment period, the Consent Decree may be examined and downloaded at this Justice Department website: *https://www.justice.gov/enrd/consent-decrees.* We will provide a paper copy of the Consent Decree upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Please enclose a check or money order for $10.00 (25 cents per page reproduction cost) payable to the United States Treasury.

Henry Friedman,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2019–04810 Filed 3–14–19; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under the Comprehensive Environmental Response, Compensation, and Liability Act

On March 7, 2019, the Department of Justice lodged a proposed Consent Decree with the United States District Court for the District of Oregon in the lawsuit entitled *United States* v. *Astoria Marine Construction Company,* Civil Action No. 3:19–cv–00337–SB.

The United States filed this lawsuit under the Comprehensive Environmental Response, Compensation, and Liability Act (''CERCLA''), 42 U.S.C. 9601 *et seq.,* alleging releases and threats of releases of hazardous substances at or from the Astoria Marine Construction Company Superfund Site in Astoria, Oregon. The proposed Consent Decree requires Astoria Marine Construction Company to pay the Environmental Protection Agency $285,000 for past response costs. If any Remediation Funds remain after cleanup is complete, Astoria Marine Construction Company will pay EPA up to an additional $365,000 from such funds before distributing any additional funds to itself or its attorneys. If entered by the Court, the proposed Consent Decree would conclude this matter in its entirety.

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* v. *Astoria Marine Construction Company,* D.J. Ref. No. 90–11–3–11100/1. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

To submit comments:	*Send them to:*
By email	*pubcomment-ees.enrd@usdoj.gov.*
By mail	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

During the public comment period, the consent decree may be examined and downloaded at this Justice Department website: *https://www.justice.gov/enrd/consent-decrees.* We will provide a paper copy of the consent decree upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Please enclose a check or money order for $4.75 for the consent decree and appendix (25 cents per page reproduction cost) or $4.25 for the consent decree without appendix, payable to the United States Treasury.

Susan M. Akers,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2019–04899 Filed 3–14–19; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF LABOR

Employment and Training Administration

Agency Information Collection Activities; Comment Request; Agricultural Clearance Order

ACTION: Notice.

SUMMARY: The Department of Labor's (DOL) Employment and Training Administration (ETA) is soliciting comments concerning a proposed authority to conduct the information collection request (ICR) titled, ''Agricultural Clearance Order.'' This comment request is part of continuing Departmental efforts to reduce paperwork and respondent burden in accordance with the Paperwork Reduction Act of 1995 (PRA).

DATES: Consideration will be given to all written comments received by May 14, 2019.

ADDRESSES: Comments submitted in response to this notice should be submitted electronically at *nma@dol.gov* or via postal mail, commercial delivery, or hand delivery. 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 by contacting Juan M. Regalado by telephone at 415–625–7904 (this is not a toll-free number), TTY by calling the toll-free Federal Information Relay Service at 1–877–889–5627 (TTY/TDD) (this is a toll-free number), or by email at *regalado.juan@dol.gov*.

Submit written comments about or requests for a copy of this ICR by mail or courier to the U.S. Department of Labor, Office of Workforce Investment, Room C–4510, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue NW, Washington, DC 20210, by email at *nma@dol.gov,* or by Fax 202–693–3981.

FOR FURTHER INFORMATION CONTACT: Contact Juan M. Regalado by telephone at 415–625–7904 (this is not a toll-free number) or by email at *regalado.juan@dol.gov*.

SUPPLEMENTARY INFORMATION: DOL, as part of continuing efforts to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies an opportunity to comment on proposed and/or continuing collections of information before submitting them to the OMB for final approval. This program helps to ensure 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 can be properly assessed.

In accordance with the authority of the Paperwork Reduction Act of 1995 [44 U.S.C. 3506(c)(2)(A)] (PRA), DOL continues its efforts to reduce paperwork and respondent burden. The Workforce Innovation and Opportunity Act (WIOA) Final Rule section containing information collection approved under this control number is found at: 20 CFR 653 Subpart F—Agricultural Recruitment System for U.S. Workers (ARS).

Under this ICR, ETA is proposing a new Agricultural Clearance Order Form, ETA Form 790B, which will be attached to the Agricultural Clearance Order Form, ETA Form 790 (currently undergoing public comment—see OMB Control Number 1205–0466). Only employers who are submitting clearance orders requesting U.S. workers for temporary agricultural jobs will fill out the ETA Form 790B.

Although ETA Form 790 is undergoing public comment, ETA is including the estimated burden to the public for the completion of ETA Form 790 in addition to the estimated burden for the ETA Form 790B, because employers would fill out both forms.

This ICR requests a change of responses per year, from 9,356 to 1,800, because most of the 790s and 790As are completed by employers participating in the H–2A program; the responses to those forms are covered under OMB Approval package #1205–0466.

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 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.

Interested parties are encouraged to provide comments to the contact shown in the **ADDRESSES** section. Comments must be written to receive consideration, and they will be summarized and included in the request for OMB approval of the final ICR. In order to help ensure appropriate consideration, comments should mention OMB Control Number 1205–0134.

Submitted comments will also be a matter of public record for this ICR and posted on the internet, without redaction. DOL encourages commenters not to include personally identifiable information, confidential business data, or other sensitive statements/information in any comments.

DOL 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.

Type of Review: Extension without changes.

Title of Collection: Agricultural Clearance Order.

Form: ETA Form 790, and ETA Form 790B.

OMB Control Number: 1205–0134.

Affected Public: Agricultural employers, State Workforce Agency, Agricultural workers.

Estimated Number of Respondents: 900 for ETA Form 790, and 900 for ETA Form 790B.

Frequency: Occasional.

Total Estimated Annual Responses: 900 for ETA Form 790, and 900 for ETA form ETA Form 790B.

Estimated Average: Time per Response: 20 minutes for ETA Form 790, and 100 minutes for ETA Form 790B.

Estimated Total Annual Burden Hours: 3,150 hours.

Total Estimated Annual Other Cost Burden: $0.

Molly E. Conway,

Acting Assistant Secretary for Employment and Training.

[FR Doc. 2019–04807 Filed 3–14–19; 8:45 am]

BILLING CODE 4510–FN–P

LIBRARY OF CONGRESS

Copyright Office

[Docket No. 2019–3]

Public Draft of the Compendium of U.S. Copyright Office Practices

AGENCY: U.S. Copyright Office, Library of Congress.

ACTION: U.S. Copyright Office releases public draft of an update to the Compendium of U.S. Copyright Office Practices, Third Edition.

SUMMARY: The U.S. Copyright Office is announcing the release of a public draft of an update to its administrative manual, the *Compendium of U.S. Copyright Office Practices, Third Edition.* The update has been released in draft form to give the public an opportunity to review and provide comments on the revisions.

DATES: Comments must be made in writing and must be received in the U.S. Copyright Office no later than May 14, 2019. The Copyright Office will hold a webinar to review the proposed revisions on April 10, 2019, at 2:00 p.m. EST, which may be accessed from the web page referenced in the Addresses section below.

ADDRESSES: The public draft of the update to the *Compendium of U.S. Copyright Office Practices, Third Edition* is available on the Office's website at *https://www.copyright.gov/comp3/draft.html.* The webinar on the proposed revisions may be accessed from the same web page. For reasons of government efficiency, the Copyright Office is using the *regulations.gov* system for the submission and posting of public comments related to this draft. All comments are therefore to be submitted electronically through *regulations.gov.* Specific instructions for submitting comments are available on the Copyright Office website at *https://www.copyright.gov/comp3/draft/comment-submission.* If electronic submission of comments is not feasible due to lack of access to a computer and/or the internet, please contact the Office using the contact information below for special instructions.

FOR FURTHER INFORMATION CONTACT: Robert J. Kasunic, Associate Register and Director of Registration Policy and Practice or Regan A. Smith, General Counsel and Associate Register of Copyrights, by telephone at 202–707–8040 or by email at *rkas@copyright.gov* and *regans@copyright.gov.*

SUPPLEMENTARY INFORMATION: The *Compendium of U.S. Copyright Office Practices, Third Edition* (''*Compendium*'') is the administrative manual of the U.S. Copyright Office (the ''Office''). It ''explains many of the practices and procedures concerning the Office's mandate and statutory duties of the Copyright Office under title 17 of the United States Code.'' 37 CFR 201.2(b)(7). ''It is both a technical manual for the Copyright Office's staff, as well as a guidebook for authors, copyright licensees, practitioners, scholars, the courts, and members of the general public.'' *Id.*

To ensure that this manual remains up to date, the Office is now releasing a draft revision of the *Compendium.* This is the first update since the *Compendium* was revised on September 29, 2017. 82 FR 45625 (Sept. 29, 2017). This update is the result of a careful review of changes to the Office's practices and procedures, as well as recent changes in the law.

In particular, the *Compendium* has been updated to reflect the Supreme Court's decision in *Star Athletica* v. *Varsity Brands,* 137 S. Ct. 1002 (2017). The draft provides new guidance for claims involving useful articles, as well as claims involving works of artistic craftsmanship, models, technical drawings, and other works of the visual arts.

Additionally, the *Compendium* has been updated to reflect rulemakings that the Office has completed over the past seventeen months. It provides information concerning the new group registration options for unpublished works and unpublished photographs, and the recent changes to the rules governing the group registration options for published photographs and serials, newspaper, and newsletter issues.[1] It reflects the new deposit requirements for literary monographs, printed music, and photographic databases, and the recent changes to the regulation on the Single Application.[2] It also incorporates changes made by the recent technical amendments to the regulation governing copyright notice.[3]

The Office recently issued other proposals to amend its registration regulations, including regarding architectural works, and a new group registration option for short online literary works.[4] The final version of the *Compendium* will include information about these amendments if the Office issues a final rule in these proceedings before this update goes into effect. The final version will also include updates to reflect the Supreme Court's recent decision in *Fourth Estate Public Benefit Corp.* v. *Wall-Street.com, LLC,* 586 U.S. __ (Mar. 4, 2019).

The *Compendium* has been updated to reflect certain technical upgrades that have been made to the electronic registration system. The Office has introduced a new and improved version of the Single Application, and finalized a regulatory update related to thisupgrade.[5] It modified the authorship statements in the application for registering a single issue of a serial publication. It expanded the unique identifiers that may be provided in an application for copyright registration, such as ISMN, ISWC, and ISTC numbers. And it added a new feature that will allow certain file types to be uploaded to the electronic system, while blocking unacceptable file types.[6]

Finally, the *Compendium* has been updated to reflect a number of practice changes that have been implemented by the Office of Registration Policy & Practice. These changes are intended to increase the efficiency of the examination process, reduce pendency times, and enhance the quality of the registration record. Among other improvements, the revisions clarify how and when the Office will communicate with applicants, when it will attempt to correct deficiencies in the application, when it will register a claim with an annotation, and when it will refuse registration.[7]

The public draft for this update to the *Compendium* may be viewed on the Office's website at *https://www.copyright.gov/comp3/draft.html.* The Office has provided redlines that compare the public draft with the version of the *Compendium* that was released on September 29, 2017. In addition, the Office's website provides a complete list of the sections that will be

[1] *See* 83 FR 2542 (Jan. 18, 2018) (final rule on group photographs); 83 FR 4144 (Jan. 30, 2018), 84 FR 3698 (Feb. 13, 2019) (final rules on group newspapers); 83 FR 61546 (Nov. 30, 2018) (final rule on group serials and group newsletters); 84 FR 3693 (Feb. 13, 2019) (final rule on unpublished works).

[2] *See* 83 FR 2371 (Jan 17, 2018) (final rule on literary monographs and printed music); 83 FR 2542 (Jan. 18, 2018) (final rule on group photographs); 83 FR 66627 (Dec. 27, 2018) (final rule on the Single Application).

[3] *See* 82 FR 42735 (Sept. 12, 2017).

[4] *See* 83 FR 65612 (Dec. 21, 2018) (proposed rule on short online literary works); 83 FR 66182 (Dec. 26, 2018) (proposed rule on architectural works).

[5] *See* 83 FR at 66627.

[6] Additional information concerning these technical upgrades is available on the Office's website at *https://www.copyright.gov/eco/updates/index.html.*

[7] *See, e.g, Compendium* public draft Chapter 600, sections 603.2(C), 605.3(D), 605.4, 605.6(B), 605.6(C), 605.6(D), 606, 610.6(B), 610.6(D)(4), 618.8(A)(8), 618.8(C)(3), 618.8(D)(2), 618.8(F), 618.8(H), 618.8(I), 619.13(Q), 619.19(T), 620.10(D)(1)(c), 621.9(E)(3), 621.9(F)(2), and 621.9(G).

added, amended, or removed in this update.

The Office welcomes comments on the public draft. In the meantime, the update will remain in draft form pending the Office's review of any comments that are received.[8]

Dated: March 11, 2019.

Regan A. Smith,

General Counsel and Associate Register of Copyrights.

[FR Doc. 2019–04798 Filed 3–14–19; 8:45 am]

BILLING CODE 1410–30–P

[8] Documents and copyright claims recorded or registered on or after the date that the final version goes into effect will be governed by that version of the *Compendium.* Registrations and recordations issued by the Office before that date generally will be governed by the December 29, 2014 or September 29, 2017 versions of the *Compendium* (as the case may be), except where those versions have been superseded by an amendment to the regulations, intervening case law, or previously announced changes in practices.

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–443; NRC–2010–0206]

NextEra Energy Seabrook, LLC; Seabrook Station, Unit No. 1

AGENCY: Nuclear Regulatory Commission.

ACTION: License renewal and record of decision; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) has issued Renewed Facility Operating License No. NPF–86 to NextEra Energy Seabrook, LLC (NextEra), Hudson Light & Power Department, Massachusetts Municipal Wholesale Electric Company, and Taunton Municipal Lighting Plant. Renewed Facility Operating License No. NPF–86 authorizes NextEra to operate Seabrook Station, Unit No. 1 (Seabrook) at reactor core power levels not in excess of 3,648 megawatts thermal, and in accordance with the provisions of the Seabrook renewed operating license and technical specifications. In addition, the NRC has prepared a record of decision (ROD) that supports the agency's decision to issue Renewed Facility Operating License No. NPF–86 authorizing operations at Seabrook for an additional 20 years.

DATES: The NRC issued Renewed Facility Operating License No. NPF–86 on March 12, 2019.

ADDRESSES: Please refer to Docket ID NRC–2010–0206 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–2010–0206. Address questions about NRC 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.
- *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 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, MD 20852.

FOR FURTHER INFORMATION CONTACT: William ''Butch'' Burton, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–6332; email: *William.Burton@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Introduction

The NRC hereby gives notice that it has issued Renewed Facility Operating License No. NPF–86 to NextEra Energy Seabrook, LLC (NextEra), Hudson Light & Power Department, Massachusetts Municipal Wholesale Electric Company, and Taunton Municipal Lighting Plant. Renewed Facility Operating License No. NPF–86 authorizes NextEra to operate Seabrook Station, Unit No. 1 (Seabrook) at reactor core power levels not in excess of 3,648 megawatts thermal, and in accordance with the provisions of the Seabrook renewed operating license and technical specifications.

The NRC ROD that supports the NRC's decision to issue Renewed Facility Operating License No. NPF–86 is available in ADAMS under Accession No. ML19002A160. The NRC documented its environmental review for the license renewal in the ROD and the final supplemental environmental impact statement (FSEIS) for the Seabrook license renewal, NUREG–1437, Supplement 46, ''Generic Environmental Impact Statement for License Renewal of Nuclear Plants Regarding Seabrook Station, Final Report,'' dated July 2015 (ADAMS Accession Nos. ML15209A575 and ML15209A870). As part of its environmental review, the NRC considered a range of reasonable alternatives to license renewal that included a natural gas-fired combined-cycle (NGCC) alternative, a new nuclear alternative, a combination alternative of NGCC and wind, and the no-action alternative. As discussed in Chapter 9, ''Conclusion,'' of the FSEIS, the NRC has determined that the adverse environmental impacts of license renewal for Seabrook are not so great that preserving the option of license renewal for energy-planning decision makers would be unreasonable. This recommendation is based on: (1) The analysis and findings in the generic environmental impact statement (NUREG–1437), (2) information provided in the environmental report and other documents submitted by NextEra, (3) consultation with Federal, State, local, and Tribal agencies, (4) the NRC staff's independent environmental review, and (5) consideration of public comments received during the scoping process and on the draft supplemental environmental impact statement.

Seabrook is a pressurized-water reactor located approximately 15 miles (24 km) south of Portsmouth, NH. The Seabrook license renewal application, dated May 25, 2010 (ADAMS Package Accession No. ML101590094), as supplemented by letters dated through August 29, 2018, complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the NRC's regulations in Chapter I of Title 10 of the *Code of Federal Regulations* (10 CFR). As required by the Act and the NRC's regulations, the NRC has made appropriate findings, which it has set forth in the renewed license. On July 21, 2010, the NRC published in the **Federal Register** a public notice of the proposed issuance of the renewed license for Seabrook. This public notice also included an opportunity to request a hearing (75 FR 42462). No adjudicatory matters are pending before the Commission or the Atomic Safety and Licensing Board regarding the Seabrook license renewal application.

For further details with respect to the issuance of the Seabrook renewed operating license, see: (1) NextEra's license renewal application for Seabrook dated May 25, 2010 (ADAMS

Package Accession No. ML101590094), as supplemented by letters through August 29, 2018 (see Appendix B of the NRC's safety evaluation report for the listing of the correspondence between the NRC and NextEra), (2) the NRC's safety evaluation report published on January 2, 2019 (ADAMS Accession No. ML18362A370), (3) the NRC's final supplemental environmental impact statement (NUREG–1437, Supplement 46) for Seabrook license renewal published in July 2015 (ADAMS Accession Nos. ML15209A575 and ML15209A870), and (4) the NRC's record of decision (ADAMS Accession No. ML19002A160).

II. Conclusion

The NRC has determined that NextEra's license renewal application for Seabrook dated May 25, 2010, as supplemented by letters through August 29, 2018, complies with the standards and requirements of the Act, and the NRC's regulations in 10 CFR. As required by the Act and the NRC's regulations, the NRC has made appropriate findings, which are set forth in the renewed license and the ROD. Accordingly, the NRC has issued Renewed Facility Operating License No. NPF–86, authorizing operation of Seabrook through March 15, 2050.

Dated at Rockville, MD, on March 12, 2019.

For the Nuclear Regulatory Commission.

Joseph E. Donoghue,

Acting Director, Division of Materials and License Renewal, Office of Nuclear Reactor Regulation.

[FR Doc. 2019–04821 Filed 3–14–19; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–443; NRC–2019–0075]

NextEra Energy Seabrook, LLC; Seabrook Station, Unit No. 1

AGENCY: Nuclear Regulatory Commission.

ACTION: License amendment; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) has issued an amendment to Facility Operating License No. NPF–86, issued to NextEra Energy Seabrook, LLC, for operation of the Seabrook Station, Unit No. 1. The amendment revised the Facility Operating License and Updated Final Safety Analysis Report to adopt a methodology for the analysis of seismic Category I structures with concrete affected by alkali-silica reaction.

DATES: The amendment was issued on March 11, 2019.

ADDRESSES: Please refer to Docket ID NRC–2019–0075 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–2019–0075. Address questions about NRC Docket IDs in *Regulations.gov* to Krupskaya Castellon; telephone: 301–287–9221; email: *Krupskaya.Castellon@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''*Begin Web-based ADAMS Search.*'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 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.
- *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: Justin C. Poole, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2048, email: *Justin.Poole@nrc.gov.*

SUPPLEMENTARY INFORMATION: The NRC has issued Amendment No. 159 to NextEra Energy Seabrook, LLC, which revised the Facility Operating License and Updated Final Safety Analysis Report for operation of the Seabrook Station, Unit No. 1, located in Rockingham County, New Hampshire. A publicly-available version is available in ADAMS under Accession No. ML18204A291. Documents related to this amendment are listed in the safety evaluation enclosed with the amendment. The amendment was effective as of the date of its issuance.

The application for the amendment 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 chapter I of title 10 of the *Code of Federal Regulations* (10 CFR), which are set forth in the license amendment.

A Notice of Consideration of Issuance of Amendment and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing in connection with this action was published in the **Federal Register** on February 7, 2017 (82 FR 9604). A request for a hearing was filed on April 10, 2017, by C–10 Research and Education Foundation, Inc.

Under its regulations, the Commission may issue and make an amendment immediately effective, notwithstanding the pendency before it of a request for a hearing from any person, in advance of the holding and completion of any required hearing, where it has determined that no significant hazards consideration is involved.

The Commission has applied the standards of 10 CFR 50.92 and has made a final determination that the amendment involves no significant hazards consideration. The basis for this determination is contained in the safety evaluation related to this action. Accordingly, as described above, the amendment has been issued and made immediately effective and any hearing will be held after issuance.

The Commission has determined that this amendment satisfies 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 this amendment.

For further details with respect to this action, see the application for amendment dated August 1, 2016 (ADAMS Package Accession No. ML16216A250), as supplemented by letters dated September 30, 2016; October 3, 2017; October 17, 2017; December 11, 2017; and June 7, 2018 (ADAMS Accession Nos. ML16279A047 (Package), ML17277A337, ML17291B136, ML17345A641, and ML18158A540, respectively).

Dated at Rockville, Maryland, on March 12, 2019.

For the Nuclear Regulatory Commission.

Justin C. Poole,

Project Manager, Plant Licensing Branch I, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 2019–04832 Filed 3–14–19; 8:45 a.m.]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–85288; File No. SR–DTC–2018–010]

Self-Regulatory Organizations; The Depository Trust Company; Order Instituting Proceedings To Determine Whether To Approve or Disapprove a Proposed Rule Change To Amend the Settlement Guide Procedures To Provide Status Information for Institutional Transactions to a Matching Utility

March 11, 2019.

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] As of March 11, 2019, the Commission has received one comment letter to the proposed rule change.[4] On December 26, 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 March 12, 2019.[5] This order institutes proceedings under Section 19(b)(2)(B) of the Act [6] to determine whether to approve or disapprove the proposed rule change.

I. Description of the Proposed Rule Change

Background

DTC proposed to amend the procedures, set forth in the DTC Settlement Service Guide (''Settlement Guide''),[7] to allow DTC to provide status information (''Status Information'') for institutional transactions in eligible securities (''Institutional Transactions'') [8] to an entity providing a matching service (''Matching Utility''),[9] as described below.

In accordance with the Settlement Guide, for a Matching Utility to establish and maintain a connection with DTC, the Matching Utility must be able to balance with DTC in an automated way [10] and communicate transactions to and from DTC with information required though mandated fields in order to provide DTC with data necessary for it to be able to process a transaction.[11]

The submission of an Affirmed Transaction by the Matching Utility to DTC, on behalf of a Participant, constitutes the duly authorized instruction of the Participant to DTC to process the Affirmed Transaction in accordance with the Rules and Procedures.[12]

A transaction submitted to DTC for processing may be subject to a processing exception (''Exception''), causing it to pend in the DTC system or not be processed because the transaction does not satisfy certain requirements and/or controls set forth in the Rules and Service Guide. A Matching Utility that has submitted an Institutional Transaction to DTC, or is otherwise involved with the matching of a transaction, does not receive Status Information regarding the transaction and is therefore unable to provide services to facilitate resolution of processing Exceptions occurring at DTC. Therefore, in order to resolve an Exception, the Participants to an Institutional Transaction must (i) access Status Information directly through the DTC Settlement User Interface and (ii), as necessary, supply the information to their customers that are counterparties to the transaction on their books, in order to facilitate the coordination of the resolution of the Exception among the counterparties.

Proposed Rule Change

DTC received a request from its Matching Utility affiliate, ITP Matching (US) LLC (''ITP''), to receive Status Information so that ITP may transmit the Status Information to counterparties in a centralized format. DTC believes that distribution of Status Information to relevant counterparties in a centralized format would facilitate Participants' ability to monitor Exceptions and coordinate with their institutional customers in order to resolve Exceptions.

Pursuant to the proposed rule change, in order to facilitate more seamless transmission of the Status Information for (i) Affirmed Transactions and (ii) other Institutional Transactions that may have been confirmed at a Matching Utility and received a Control Number, and are submitted directly to DTC by a Participant in an instruction containing the Control Number, (collectively, ''Eligible Transactions'') to Participants and facilitate their ability to manage Exceptions, DTC proposes to amend the Settlement Guide to provide that DTC may provide Status Information on Eligible Transactions to the applicable Matching Utility that submitted the transaction to DTC, or with respect to which its Control Number is included in transaction details provided by a Participant,[13] if so requested by the Matching Utility.

In this regard, DTC would send to a Matching Utility Status Information for Eligible Transactions that DTC has received from the Matching Utility or have been entered by the Participant,

[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) (''Notice'').

[4] Letter from Mari-Anne Pisarri, Chief Financial Officer, Pickard Djinis and Pisarri LLP, dated January 2, 2019, to Eduardo A. Aleman, Assistant Secretary, Commission, *available at https://www.sec.gov/comments/sr-dtc-2018-010/srdtc2018010-4842066-77179.pdf* (''SS&C Letter'').

[5] Securities Exchange Act Release No. 84954 (December 26, 2018), 84 FR 873 (January 31, 2019) (SR–DTC–2018–010).

[6] 15 U.S.C. 78s(b)(2)(B).

[7] Each capitalized term not otherwise defined herein has its respective meaning as set forth in the Rules, By-Laws and Organization Certificate of The Depository Trust Company (''Rules''), *available at http://www.dtcc.com/legal/rules-and-procedures.aspx* and the Settlement Service Guide, *available at http://www.dtcc.com/~/media/Files/Downloads/legal/service-guides/Settlement.pdf.*

[8] DTC defined in the Notice an Institutional Transaction as a securities transaction between a broker-dealer and its institutional customer (*e.g.,* sell-side firms, buy-side institutions, and custodians).

[9] A ''matching service'' is defined in the Settlement Guide as an electronic service to match trade information, centrally, between a broker-dealer and its institutional customer.

[10] For each Matching Utility interfacing with DTC, DTC requires the Matching Utility to deliver a daily message on each business day shortly after noon from the Matching Utility with their accepted item counts of institutional delivery and ID Net transaction totals for Settlement Date minus one transactions. DTC's system will compare the totals from the Matching Utility to its accepted item counts. If the totals match, an ''acknowledged balance'' balance file will be sent to the Matching Utility. If the totals do not match, DTC will respond with the list of Settlement Date minus one control numbers received from the Matching Utility, along with their respective transaction types for the originating Matching Utility to compare. *Id.*

[11] The mandated fields for this purpose are the transaction control number (''Control Number''), DTC receiver and deliverer account numbers, CUSIP, message type, share quantity, market type, buy-sell indicator, broker ID, ID agent internal account number, broker internal account number, agent bank ID, settlement amount, origination entity, recipient of message, institution, and settlement date. *Id.* Institutional Transactions that are not Affirmed Transactions, but which include a Control Number, may be submitted directly by Participants.

[12] *Id.*

[13] DTC states that it is DTC's understanding that a transaction that has been confirmed within a Matching Utility's system, but has not been affirmed, may be assigned a Control Number by the Matching Utility. Any transaction not affirmed by a Matching Utility would not be submitted by it to DTC as an Affirmed Transaction. In that case, the Participant may submit the transaction directly through DTC as a Deliver Order, and include the applicable Control Number as assigned by the Matching Utility on its submission to DTC.

that have a Control Number associated with that Matching Utility. The Status Information provided to the Matching Utility would include the status of the transaction (*e.g.,* the Delivery of Securities has been made within DTC, the transaction is pending Delivery within DTC, or the transaction was reclaimed (*i.e.,* sent back to the Deliverer)) and a reason for any pending status (*e.g.,* the Deliverer has insufficient inventory in the applicable Securities, the Deliverer has insufficient Collateral, the Receiver to the transaction has insufficient Net Debit Cap, etc.). The Status Information would also include information (''Identifying Information'') to facilitate the Matching Utility's ability to identify the applicable Eligible Transaction and reconcile the Status Information to the Eligible Transaction in its records. Identifying Information would include, but not be limited to, (i) the applicable Control Number (ii) identification numbers of the Participants to the transaction, (iii) quantity of Securities, (iv) dollar amount of the transaction, and (v) an indicator of whether the transaction was submitted to DTC by the Matching Utility or directly by a Participant.

Proposed Changes to the Settlement Guide

Pursuant to the proposed rule change, DTC proposed to revise the Settlement Guide to allow DTC to provide Status Information of (i) Affirmed Transactions and (ii) other institutional transactions to a Matching Utility that requests such information, but only for those transactions that are associated with a Control Number relating to the Matching Utility. The proposed text to the Settlement Guide would also (x) describe the types of Status Information and related Identifying Information that would be shared with a Matching Utility in this regard, and (y) provide that DTC may charge a fee (''Status Information Fee'') to a Matching Utility that receives Status Information as set forth in the DTC Fee Guide.[14] The proposed rule change would also add a defined term for ''Control Number'' to the Settlement Guide in existing text where the term is referred to but not defined.

The proposed rule change would require that prior to providing Status Information to a Matching Utility, DTC would obtain the written agreement, in such form as determined by DTC from time to time (''Status Information Agreement''), from the Matching Utility that includes the following:

(i) A request from the Matching Utility to receive Status Information from DTC;

(ii) an agreement by the Matching Utility that the Matching Utility will not distribute Status Information to any third party other than (a) the Participants indicated on the Status Information and (b) the institutional customers that are counterparties to the transaction for which the Participants indicated on the Status Information are acting with respect to the transaction;

(iii) the agreement of the Matching Utility that the Matching Utility will indemnify, hold harmless and agree, on demand, to reimburse DTC, its stockholders, officers, directors and employees from and against and for any and all claims, liabilities, obligations, damages, actions, penalties, losses, costs, expenses and disbursements, including, without limitation, attorneys' fees and disbursements (''Claims''), which they may sustain by reason of DTC's providing Status Information to the Matching Utility, except for any Claims which result from the gross negligence or willful misconduct of the person asserting a right to indemnification;

(iv) the agreement of the Matching Utility to pay the Status Information Fee;

(v) the agreement of the Matching Utility to notify DTC immediately if the Matching Utility becomes aware of Status Information provided to it by DTC being distributed to a third party other than as authorized pursuant to (ii) above; and

(vi) the acknowledgement of the Matching Utility that DTC may terminate the Status Information Agreement in the event that (a) DTC becomes aware that the Matching Utility has used or distributed the Status Information in a manner that violates the terms of the Status Information Agreement, (b) the Matching Utility does not pay the Status Information Fee in accordance with the terms of the Fee Schedule, or (c) DTC submits a rule filing to the SEC, which is approved by the SEC or otherwise becomes effective pursuant to the Act to discontinue DTC's distribution of Status Information to Matching Utilities.

III. Summary of Comment Received

The Commission received one comment letter in opposition to the proposal. The commenter notes, that in 2015, the Commission issued an order permitting the commenter to operate as a Matching Utility,[15] and that in accordance with the Commission's order, the commenter and ITP have undertaken negotiations to facilitate the development of linkages and interfaces that would permit interoperability between the two Matching Utilities.[16] Nevertheless, to date, the commenter and ITP have not achieved interoperability. The commenter opposes the proposal because the commenter believes that the proposal would (i) hinder the development of linked and coordinated facilities for clearance and settlement and (ii) impose an impermissible burden on competition.[17]

According to the commenter, through the proposed rule change, ITP is ''asking DTC to charge it for Status Information, and to confirm that DTC will not send Status Information to a competing Matching Utility unless that competing Matching Utility has the sell side on its platform and submits the transaction for settlement.'' [18] The commenter asserts that given the ''sealed ecosphere in which DTC operates,'' the proposal is a way for ITP to ''switch revenue from one DTC pocket to another, while giving ITP an excuse not to pass acknowledgement messages through its interface for free.'' [19] The commenter also asserts that ''[i]t is impossible to tell from this filing if or how this Status Information differs from the pre-settlement details that DTC already supplies ITP through Trade Suite.'' [20]

The commenter believes that the proposal would impose a burden on competition because (i) it would be merely a paper transfer of revenue between DTC and ITP without any revenue or cost impact at the parent level and (ii) DTC is not similarly restricted from monetizing this information through the depository or ITP.[21] In contrast, the commenter argues that the proposed fee would be a true cost for the commenter because the

[14] *Available at http://www.dtcc.com/~/media/Files/Downloads/legal/fee-guides/dtcfeeguide.pdf.* Any such fee would be the subject of a subsequent proposed rule change that DTC would file with the Commission.

[15] Bloomberg STP LLP; SS&C Technologies, Inc.; Order of the Commission Approving Applications for an Exemption from Registration as a Clearing Agency, Exchange Act Release No. 76514 (November 24, 2015), 80 FR 75388 (December 1, 2015).

[16] The Commission's order also permitted a second entity to act as a Matching Utility, but that entity did not submit a comment letter.

[17] *See* SS&C Letter at 4–5.

[18] *See id.*

[19] *See id.*

[20] *See* SS&C Letter at 2. According to the commenter, TradeSuite is an ITP services that automates post-trade messaging and settlement for domestic and cross-border trades of equity and fixed income securities, and that DTC's Inventory Management System supplies TradeSuite with updates regarding pre-settlement status of affirmed trades.

[21] *See id.* at 5.

commenter would be faced with a choice of absorbing the fee and raising its operating costs, or passing the fee through to its customers, forcing its prices to become less competitive.[22]

IV. 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[23] to determine whether the proposed rule change should be approved or disapproved. Institution of proceedings is appropriate at this time in view of the legal and policy issues raised by the proposed rule change. Institution of proceedings does not indicate that the Commission has reached any conclusions with respect to any of the issues involved. Rather, the Commission seeks and encourages interested persons to comment on the proposed rule change, and provide the Commission with arguments to support the Commission's analysis as to whether to approve or disapprove the proposed rule change.

Pursuant to Section 19(b)(2)(B) of the Act,[24] the Commission is providing notice of the grounds for disapproval under consideration. The Commission is instituting proceedings to allow for additional analysis of, and input from a commenter with respect to, the proposed rule change's consistency with Section 17A of the Act,[25] and the rules thereunder, including the following provisions: (i) Section 17A(b)(3)(F) of the Act,[26] which requires, among other things, that the rules of a clearing agency must be designed to promote the prompt and accurate clearance and settlement of securities transactions; and (ii) Section 17A(b)(3)(I) of the Act,[27] which requires that the rules of a clearing agency do not impose any burden on competition not necessary or appropriate in furtherance of the purpose of the Act.

V. 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 proposed rule change. In particular, the Commission invites the written views of interested persons concerning whether the proposed rule change is consistent with Sections 17A(b)(3)(F) and (I) of the Act, cited above, or any other provision of the Act, or the rules and regulations thereunder. Although there do not appear to be any issues relevant to approval or disapproval that would be facilitated by an oral presentation of views, data, and arguments, the Commission will consider, pursuant to Rule 19b–4(g) under the Act,[28] 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 proposed rule change should be approved or disapproved by April 5, 2019. Any person who wishes to file a rebuttal to any other person's submission must file that rebuttal by April 15, 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–DTC–2018–010 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–DTC–2018–010. 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 filings also will be available for inspection and copying at the principal office of DTC and on DTCC's website (*http://dtcc.com/legal/sec-rule-filings.aspx*). 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–DTC–2018–010 and should be submitted on or before April 5, 2019. Rebuttal comments should be submitted by April 15, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[30]

Eduardo A. Aleman,

Deputy Secretary.

[FR Doc. 2019–04809 Filed 3–14–19; 8:45 am]

BILLING CODE 8011–01–P

[22] *See id.*

[23] 15 U.S.C. 78s(b)(2)(B).

[24] *Id.*

[25] 15 U.S.C. 78q–1.

[26] 15 U.S.C. 78q–1(b)(3)(F).

[27] 15 U.S.C. 78q–1(b)(3)(I).

[28] 17 CFR 240.19b–4(g).

[29] Section 19(b)(2) of the Act grants to 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).

[30] 17 CFR 200.30–3(a)(57).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–85283; File No. SR–MIAX–2019–11]

Self-Regulatory Organizations; Miami International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Its Fee Schedule

March 11, 2019.

Pursuant to the provisions of Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on February 28, 2019, Miami International Securities Exchange, LLC (''MIAX Options'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') a proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[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 is filing a proposal to amend the MIAX Options Fee Schedule (the ''Fee Schedule'') to adopt transaction fees and rebates for SPIKES index option orders and quotes (collectively ''orders''), and for transactions involving SPY options on SPIKES settlement day, as described below. The Exchange also proposes to make a technical clarification to its Fee Schedule.

The Exchange initially filed the proposal on February 15, 2019 (SR–MIAX–2019–04). That filing has been withdrawn and replaced with the current filing (SR–MIAX–2019–11).

The text of the proposed rule change is available on the Exchange's website at *http://www.miaxoptions.com/rule-filings,* at MIAX's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the Fee Schedule to adopt transaction fees and rebates for SPIKES index options orders, and for transactions involving SPY options on SPIKES settlement day, as described below. The Exchange also proposes to make a technical clarification to its Fee Schedule. The Exchange notes, by way of background, that on June 28, 2018, the Exchange filed with the Commission a proposal to list and trade on the Exchange, options on the SPIKES™ Index, a new index that measures expected 30-day volatility of the SPDR S&P 500 ETF Trust (commonly known and referred to by its ticker symbol, ''SPY'').[3] Accordingly, the Exchange is proposing to adopt transaction fees and rebates that will apply to Exchange Members[4] for transactions involving SPIKES index options, and for transactions involving SPY options on SPIKES settlement day. All order fees will be charged on a per contract per side basis.

The Exchange proposes to exclude SPIKES index options volume from a variety of fee and rebate programs and their calculation, in the Fee Schedule. Specifically, SPIKES index options volume will not count towards: the Priority Customer Rebate Program, the Market Maker Transaction Fees Sliding Scale of fees and rebates, or the Professional Rebate Program. The Exchange notes the reason a proprietary product would often be included in or excluded from certain programs is because the Exchange has expended considerable resources to develop and maintain a proprietary product, such as SPIKES. Thus, the Exchange proposes to make technical clarifications to existing fee and rebate programs to exclude SPIKES index options volume from such programs. Lastly, the Exchange proposes to adopt new Section 1)a)xi), SPIKES, on the Fee Schedule to establish transaction fees and rebates that the Exchange will assess for transactions in SPIKES index options.

Simple and Complex Fees

The Exchange is proposing to adopt new Section (1)(a)(xi), SPIKES, on the Fee Schedule to establish transaction fees and rebates for executions in SPIKES index options for different Origin types. More specifically, the Exchange is proposing both Maker and Taker fees for Simple orders, and fees for Simple Opening orders. Market participants that place resting liquidity, *i.e.,* quotes or orders on the MIAX Options System,[5] are assessed the ''maker'' fee (each a ''Maker''). Market participants that execute against (remove) resting liquidity are assessed a higher ''taker'' fee (each a ''Taker''). This is distinguished from traditional maker-taker models where makers typically receive a rebate and takers are assessed a fee; the Exchange instead assesses lower transaction fees to its Makers as compared to its Takers, similar to the manner implemented at other exchanges.[6] As an incentive for market participants to provide liquidity on the Exchange, the Exchange's Maker fees are lower than its Taker fees.

With respect to Simple Maker fees, the Exchange proposes that Priority Customers,[7] Market Makers, and Firm Proprietary orders will be charged a $0.00 fee; and that Non-MIAX Market Makers, Broker-Dealers, and Public Customers that are not Priority Customers be charged a $0.10 fee. With respect to Simple Taker fees, the Exchange proposes that Priority Customers will be charged a $0.00 fee; Non-MIAX Market Makers, Broker-Dealers, and Public Customers that are not Priority Customers be charged a $0.25 fee; and Market Makers and Firm Proprietary orders be charged a $0.20 fee. Additionally, the Exchange proposes that Taker fees for options with a premium price of $0.10 or less will be charged $0.05 per contract, with respect to Market Makers and Firm Proprietary orders, which is similar to the pricing model used by the Cboe Exchange, Inc. (''Cboe'').[8] Furthermore, for Simple Opening orders, the Exchange proposes that Priority Customers be charged a $0.00 fee; and Market Makers, Non-MIAX Market Makers, Broker-Dealers, Firm Proprietary orders, and Public Customers that are not Priority Customers be charged a $0.15 fee. Additionally, the Exchange proposes to charge a per contract, per leg fee for complex orders which will be $0.01 for Marker Makers, Non-MIAX Market Makers, Broker-Dealers, Firm Proprietary orders, and Public Customers that are not Priority Customers. The Exchange proposes to charge a $0.00 fee for Priority Customer complex orders. The Exchange is not proposing a different Maker and Taker fee for each Origin type. Instead, the Exchange will assess one per contract, per leg fee of $0.01 for complex orders.

Finally, with respect to Simple and Complex fees, the Exchange proposes a Simple/Complex Large Trade Discount. An order/quote that exceeds the size threshold, tied to a Single Order/Quote ID, will have the relevant fees apply to the contracts at and below the size threshold for Simple and Complex

[3] *See* Securities Exchange Act Release No. 84417 (October 12, 2018), 83 FR 52865 (October 18, 2018) (SR–MIAX–2018–14) (Order Granting Approval of a Proposed Rule Change by Miami International Securities Exchange, LLC to List and Trade on the Exchange Options on the SPIKES™ Index).

[4] The term ''Member'' means an individual or organization approved to exercise the trading rights associated with a Trading Permit. Members are deemed ''members'' under the Exchange Act. *See* Exchange Rule 100.

[5] The term ''System'' means the automated trading system used by the Exchange for the trading of securities. *See* Exchange Rule 100.

[6] The Exchange notes that similar maker-taker pricing is implemented at Nasdaq ISE Options 7, Section 3, Regular Order Fees and Rebates.

[7] A ''Priority Customer'' means a person or entity that (i) is not a broker or dealer in securities, and (ii) does not place more than 390 orders in listed options per day on average during a calendar month for its own beneficial accounts(s). A ''Priority Customer Order'' means an order for the account of a Priority Customer.

[8] *See* Cboe Exchange, Inc. Fee Schedule, Pg.2.

volume; no fees shall apply to the number of contracts executed above the threshold, with certain exceptions. For example, the Large Trade Discount does not apply to volume from Priority Customer orders, Maker orders, SPIKES Opening orders, and the Surcharge. Specifically, the Exchange proposes that, for any single order/quote, no fee shall apply to the number of contracts executed above the first 175,000 contracts for Market Makers, Non-MIAX Market Makers, Broker-Dealers, Firm Proprietary orders, and Public Customers that are not Priority Customers. The Exchange does not propose that such a discount apply to Priority Customer orders because, as proposed, the Exchange is currently charging Priority Customers a $0.00 fee for these volume segments.

The Exchange believes that the proposed transaction fees for Simple and Complex orders on SPIKES index options are reasonable, and have been set at an initial level that is favorable to market participants and are designed to encourage market participants to provide liquidity for SPIKES index options on the Exchange. As proposed, the SPIKES Simple and Complex transaction fee table will be as follows:

SIMPLE AND COMPLEX FEES

Origin	Simple maker	Simple taker	Simple opening	Complex ~	Simple/complex large trade discount threshold +
Priority Customer	$0.00	$0.00	$0.00	$0.00	0.
Market Maker	0.00	* 0.20	0.15	0.01	First 175,000 contracts.
Non-MIAX Market Maker	0.10	0.25	0.15	0.01	First 175,000 contracts.
Broker-Dealer	0.10	0.25	0.15	0.01	First 175,000 contracts.
Firm Proprietary	0.00	* 0.20	0.15	0.01	First 175,000 contracts.
Public Customer that is Not a Priority Customer.	0.10	0.25	0.15	0.01	First 175,000 contracts.

* Taker fees for options with a premium price of $0.10 or less will be charged $0.05 per contract.
~ All fees are per contract per leg.
+ Tied to Single Order/Quote ID. For any single order/quote, no fee shall apply to the number of contracts executed above the Simple/Complex Large Trade Discount Threshold. This discount does not apply to Priority Customer orders, Maker orders, SPIKES Opening orders, and the Surcharge.

PRIME and cPRIME Fees

As part of the Exchange's proposal to adopt new Section (1)(a)(xi), the Exchange further proposes to establish transaction fees related to PRIME and cPRIME orders in SPIKES. Specifically, the Exchange proposes to establish a fee for initiating orders in the amount of $0.10 for Market Makers, Non-MIAX Market Makers, Broker-Dealers, Firm Proprietary orders, and Public Customers that are not Priority Customers. The Exchange proposes to charge Priority Customers a fee of $0.00 for initiating orders. Further, the Exchange proposes to establish a fee for contra-side orders for all Origin types in the amount of $0.20 and a fee for responder-side orders in the amount of $0.25. Finally, the Exchange proposes to establish a break-up credit for all Origin types in the amount of $0.15. With all of the proposals, the SPIKES PRIME and cPRIME transaction fee table will be as follows:

PRIME AND cPRIME FEES

Origin	Initiating	Contra	Responder	Break-up
Priority Customer	$0.00	$0.20	$0.25	($0.15)
Market Maker	0.10	0.20	0.25	(0.15)
Non-MIAX Market Maker	0.10	0.20	0.25	(0.15)
Broker-Dealer	0.10	0.20	0.25	(0.15)
Firm Proprietary	0.10	0.20	0.25	(0.15)
Public Customer that is Not a Priority Customer	0.10	0.20	0.25	(0.15)

Surcharge

The Exchange further proposes to establish an Index License Surcharge (''Surcharge'') of $0.075. The Surcharge will apply to any contract that is executed by an Origin except Priority Customer in Simple, Complex, PRIME and cPRIME, and will apply per contract side, per leg in order to recoup the costs associated with listing this proprietary product. Other exchanges charge a similar fee for proprietary index options.[9] The Exchange notes, however, that the Surcharge will be waived for the ''Waiver Period.'' The Exchange proposes to define ''Waiver Period'' to mean, for purposes of Section (1)(a)(xi) of the Fee Schedule, the period of time from the launch of trading of SPIKES options until such time that the Exchange submits a filing to terminate the Waiver Period. The Exchange will issue a Regulatory Circular announcing the end of the Waiver Period at least fifteen (15) days prior to the termination of the Waiver Period and effective date of such Surcharge.

SPIKES Settlement Day SPY Opening Auction Fees in SPY Options

The Exchange further proposes to adopt fees for the Opening Process in SPY options that will only be applicable on SPIKES settlement day. Specifically, these fees will be charged to each side of all trades occurring in the SPY Opening in the expiration month used to determine SPIKES settlement on settlement day only; in lieu of any other fees in the Fee Schedule. To be clear, volume in settlement day SPY Opening options, as they are still multiply-listed, will continue to count towards the volume calculation of the variety of fee and rebate programs as noted above.

[9] *See* Cboe Exchange, Inc Fee Schedule, Specified Proprietary Index Options Rate Table—Underlying Symbol List A and Sector Indexes; *see also* Nasdaq ISE Options 7, Section 5 C.

The purpose for adopting lower, separate fees for these SPY transactions is to encourage Market Makers and other market participants that need to unwind a SPIKES hedge to participate in the Opening Auction, by making the pricing more attractive. Specifically, market participants holding short, hedged SPIKES options could liquidate that hedge by selling their SPY options series, while traders holding long, hedged SPIKES options could liquidate their hedge by buying SPY option series. These market participants may liquidate their hedges by submitting SPIKES strategy orders in the appropriate SPY option series during the SPIKES Special Settlement Auction [10] on the SPIKES expiration/final settlement date. The fees will be assessed as follows:

SPIKES SETTLEMENT DAY SPY OPENING AUCTION FEES

Origin	SPY opening orders ¤
Priority Customer	$0.00
Market Maker	0.03
Non-MIAX Market Maker	0.06
Broker-Dealer	0.06
Firm Proprietary	0.03
Public Customer that is Not a Priority Customer	0.06

¤ These fees will be charged to each side of all trades occurring in the SPY opening in the expiration month used to determine SPIKES settlement on settlement day only; in lieu of any other fees in the Fee Schedule.

Technical Clarification

The Exchange also proposes to make a technical clarification to the explanatory paragraph below the Market Maker Transaction Fees, Market Maker Sliding Scale, Members and Their Affiliates Not In Priority Customer Rebate Program Volume Tier 3 or Higher fee table, located in Section (1)(a)(i) of the Fee Schedule. Currently, the first sentence of the explanatory paragraph provides that ''[v]olume thresholds are based on the total national Market Maker volume of any options classes with traded volume on MIAX during the month in simple and complex orders (excluding QCC and cQCC Orders, PRIME and cPRIME AOC Responses, and unrelated MIAX Market Maker quotes or unrelated MIAX Market Maker orders that are received during the Response Time Interval and executed against the PRIME Order (''PRIME Participating Quotes or Orders'') and unrelated MIAX Market Maker complex quotes or unrelated MIAX Market Maker complex orders that are received during the Response Time Interval and executed against a cPRIME Order (''cPRIME Participating Quote or Order'')).'' In order to clarify that this explanatory paragraph would not apply to singly-listed options on the SPIKES Index, the Exchange proposes to modify this sentence as follows: ''[v]olume thresholds are based on the total national Market Maker volume of any multiply-listed options classes with traded volume on MIAX during the month in simple and complex orders (excluding QCC and cQCC Orders, PRIME and cPRIME AOC Responses, and unrelated MIAX Market Maker quotes or unrelated MIAX Market Maker orders that are received during the Response Time Interval and executed against the PRIME Order (''PRIME Participating Quotes or Orders'') and unrelated MIAX Market Maker complex quotes or unrelated MIAX Market Maker complex orders that are received during the Response Time Interval and executed against a cPRIME Order (''cPRIME Participating Quote or Order'')),'' by adding the words ''multiply-listed.'' The Exchange believes that by adding this additional wording, it will be clear that the volume in singly-listed options is not counted towards reaching the Market Maker Sliding Scale Tier thresholds of both tables.

Further, the Exchange notes that Section 2 of the Fee Schedule, Regulatory Fees, generally applies to transactions in options. However, Section (2)(a), Sales Value Fee, will not be assessed to transactions in SPIKES index options because pursuant to 17 CFR 240.31, ''[a]ny sale of an option on a security index (including both a narrow-based security index and a non-narrow-based security),'' is an exempt sale, and therefore, not subject to the Sales Value Fee.

Finally, the fees found in Section 3, Membership Fees, Section 4, Testing and Certification Fees, Section 5, System Connectivity Fees, and Section 6, Market Data Fees, will all be applicable to transactions in SPIKES index options and will be treated like any other class of options.

2. Statutory Basis

The Exchange believes that its proposal to amend its Fee Schedule is consistent with Section 6(b) of the Act [11] in general, and furthers the objectives of Section 6(b)(4) of the Act [12] in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among Exchange Members and issuers and other persons using its facilities. The Exchange also believes the proposal furthers the objectives of Section 6(b)(5) of the Act [13] in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest and is not designed to permit unfair discrimination between customer, issuers, brokers and dealers.

The Exchange believes that the proposed fee structure for transactions in SPIKES index options is consistent with Section 6(b)(4) of the Act in that it is reasonable, equitable and not unfairly discriminatory. The proposed fee structure is reasonably designed because it is intended to incentivize market participants to transact in SPIKES index options on the Exchange, which enables the Exchange to improve its overall competitiveness and strengthen its market quality for all market participants. The Exchange believes that the proposed maker-taker model is an important competitive tool for exchanges and, directly or indirectly, can provide better prices for investors. The Exchange will assess lower transaction fees to its Makers as compared to its Takers as an incentive for market participants to provide liquidity on the Exchange. The Exchange believes this will encourage greater order flow from all market participants, which will in turn bring greater volume and liquidity to the Exchange, which benefits all market participants by providing more trading opportunities and tighter spreads. SPIKES index option transaction fees are also reasonably designed because the proposed fees and rebates are similar to the ones the Exchange assesses for multiply-listed options, and are within the range of fees and rebates assessed by other exchanges employing similar fee structures for singly-listed options.[14] Other competing exchanges offer different fees and rebates for transactions in singly-listed options in a manner similar to this proposal.[15]

The fee and rebate structure is reasonable, equitable, and not unfairly discriminatory because it will apply equally to Priority Customer orders, Market Maker orders, Non-MIAX Market Maker orders, Broker Dealer orders, Firm Proprietary orders, and Public Customers that are not Priority Customers orders, in each respective category of SPIKES index option orders;

[10] *See* Exchange Rule 503, Interpretations and Policies .03.

[11] 15 U.S.C. 78f(b).

[12] 15 U.S.C. 78f(b)(4).

[13] 15 U.S.C. 78f(b)(5).

[14] *See supra* notes 6, 8 and 9.

[15] *See id.*

for both Simple and Complex orders, and PRIME and cPRIME orders, and for transactions involving SPY options on SPIKES settlement day. All similarly situated categories of participants are subject to the same transaction fee and rebate schedule, and access to the Exchange is offered on terms that are not unfairly discriminatory.

The Exchange believes that it is equitable and not unfairly discriminatory to adopt fees for the Opening Process in SPY options that will only be applicable on SPIKES settlement day to encourage Market Makers and other market participants that need to unwind a SPIKES hedge to participate in the Opening Auction, by making the pricing more attractive. Specifically, market participants holding short, hedged SPIKES options could liquidate that hedge by selling their SPY options series, while traders holding long, hedged SPIKES options could liquidate their hedge by buying SPY option series. These market participants may liquidate their hedges by submitting SPIKES strategy orders in the appropriate SPY option series during the SPIKES Special Settlement Auction on the SPIKES expiration/final settlement date.

The exchanges in general have historically aimed to improve markets for investors and develop various features within market structure for customer benefit. The Exchange assesses Priority Customers lower or no transaction fees because Priority Customer order flow enhances liquidity on the Exchange for the benefit of all market participants. Priority Customer liquidity benefits all market participants by providing more trading opportunities, which attracts Market Makers. An increase in the activity of these market participants in turn facilitates tighter spreads, which may cause an additional corresponding increase in order flow from other market participants.

The Exchange believes that it is equitable and not unfairly discriminatory that Firm Proprietary orders are assessed lower Maker and Taker fees for Simple orders, and for transactions involving SPY options on SPIKES settlement day, than other Origin types because the Exchange believes that Firm Proprietary order flow enhances liquidity on the Exchange for the benefit of all market participants. Specifically, Firm Proprietary order flow liquidity benefits all market participants by providing more robust trading opportunities, which attract Market Makers. An increase in the activity of those market participants in turn facilitates tighter spreads, which may cause an additional corresponding increase in order flow from other market participants. The Maker and Taker fees offered to Firm Proprietary orders are intended to attract more Firm Proprietary order volume to the Exchange. Moreover, all fee amounts listed as applying to Firm Proprietary orders will be applied equally to all Firm Proprietary Orders.

The Exchange further believes that it is equitable and not unfairly discriminatory to assess lower Maker and Taker fees to Market Makers for Simple orders, and for transactions involving SPY options on SPIKES settlement day, as compared to other market participants because Market Makers, unlike other market participants, take on a number of obligations, including quoting obligations that other market participants do not have. Further, Market Makers have added market making and regulatory requirements, which normally do not apply to other market participants. For example, Market Makers have obligations to maintain continuous markets, engage in a course of dealings reasonably calculated to contribute to the maintenance of a fair and orderly market, and to not make bids or offers or enter into transactions that are inconsistent with a course of dealing. Further, these lower Maker and Taker fees offered to Market Makers are intended to incent Market Makers to quote and trade more on the Exchange, thereby providing more liquidity and trading opportunities for all market participants. Additionally, the proposed Maker and Taker fees for Market Makers will be applied equally to all Market Makers It should also be noted that all fee amounts described herein are intended to attract greater order flow to the Exchange in SPIKES options, which should therefore serve to benefit all Exchange market participants.

The Exchange further believes that its proposal to charge a Surcharge of $0.075, which applies to any contract that is executed by an Origin except Priority Customer in Simple, Complex, PRIME and cPRIME, is reasonable because it will help recoup costs associated with listing a proprietary product. Further, the Exchange believes the Surcharge is equitable and not unfairly discriminatory because the Exchange will apply the same Surcharge for all similarly situated Members in a similar manner. The Exchange also believes it is equitable and not unfairly discriminatory to not assess the Surcharge to Priority Customer orders in SPIKES options because Priority Customer orders bring valuable liquidity to the market, which in turn benefits other market participants. Other exchanges charge a similar fee for proprietary index options.[16] The Exchange believes that establishing a Waiver Period for application of the Surcharge is reasonable, equitable, and not unfairly discriminatory because it provides an incentive for Members to send orders to the Exchange, as the Surcharge fee will not apply during the Waiver Period. All similarly situated categories of participants are subject to the same Waiver Period, and access to the Exchange is offered on terms that are not unfairly discriminatory.

Moreover, the Exchange believes that assessing all other market participants that are not Priority Customers a higher transaction fee than Priority Customers for orders in SPIKES index options is reasonable, equitable, and not unfairly discriminatory because these types of market participants are more sophisticated and have higher levels of order flow activity and system usage. This level of trading activity draws on a greater amount of system resources than that of Priority Customers. Further, the Exchange believes it is equitable and not unfairly discriminatory to assess all other market participants that are not Priority Customers, Market Makers, or Firm Proprietary orders a higher Simple Maker fee for orders in SPIKES options because Priority Customers, Market Makers, and Firm Proprietary orders bring valuable liquidity to the market. An increase in the activity of these market participants in turn facilitates tighter spreads, which may cause an additional corresponding increase in order flow from other market participants, which in turn benefits the market as a whole.

The Exchange believes that excluding singly-listed transactions from the number of options contracts executed on the Exchange by any Member for purposes of the volume thresholds in multiply-listed options transactions is reasonable, equitable, and not unfairly discriminatory because participating Members could otherwise collect the rebates offered and meet volume thresholds for the programs that did not contemplate singly-listed volume at the time of creation, and which have different transaction fees charged on the Exchange.

The Exchange believes that the proposed technical changes are consistent with Section 6(b)(5) of the Act because they are designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanisms of a free and

[16] *See supra* note 9.

open market and a national market system and, in general to protect investors and the public interest. The Exchange believes it is appropriate to make the proposed technical changes to its Fee Schedule so that Exchange Members have a clear and accurate understanding of the meaning and application of the Exchange's Fee Schedule.

The Exchange believes that charging lower Taker fees to Market Makers and Firm Proprietary orders for options that have a premium price of $0.10 or less (such options are charged $0.05 per contract, versus $0.20 per contract) is reasonable, equitable, and not unfairly discriminatory because otherwise such fees could be greater than the option premium itself. The Exchange believes that it is equitable and not unfairly discriminatory to assess lower Taker fees to Market Makers as compared to Non-MIAX Market Makers and Broker-Dealers because Market Makers, unlike other market participants, take on a number of obligations, including quoting obligations that other market participants do not have. Further, Market Makers have added market making and regulatory requirements, which normally do not apply to other market participants. For example, Market Makers have obligations to maintain continuous markets, engage in a course of dealings reasonably calculated to contribute to the maintenance of a fair and orderly market, and to not make bids or offers or enter into transactions that are inconsistent with a course of dealing. Non-MIAX Market Makers and Broker-Dealers tend to be takers of liquidity, as opposed to providers of liquidity.

Additionally, the Exchange believes that it is equitable and not unfairly discriminatory to assess lower Taker fees to Firm Proprietary orders for options that have a premium price of $0.10 or less (such options are charged $0.05 per contract, versus $0.20 per contract), as compared to Non-MIAX Market Makers and Broker-Dealers because Firm Proprietary order flow enhances liquidity on the Exchange for the benefit of all market participants. Specifically, Firm Proprietary order flow liquidity benefits all market participants (as Firm Proprietary orders are generally providers of liquidity) by providing more robust trading opportunities, which attract Market Makers and Priority Customers. An increase in the activity of those market participants in turn facilitates tighter spreads, which may cause an additional corresponding increase in order flow from other market participants. The lower Taker fees offered to Firm Proprietary orders are intended to attract more Firm Proprietary order volume to the Exchange. Non-MIAX Market Makers and Broker-Dealers tend to be takers of liquidity, as opposed to providers of liquidity. The Exchange notes that Cboe also has similar pricing in place for its VIX options where it does not provide a discount to non-market makers and broker-dealers.[17]

The Exchange believes that offering Members a Large Trade Discount is reasonable, equitable, and not unfairly discriminatory because it provides an incentive for Members to submit large sized liquidity to the Exchange, which will benefit all market participants. All similarly situated categories of participants are subject to the same discount (except for Priority Customers which are not charged a transaction fee otherwise, so no discount is necessary), and access to the Exchange is offered on terms that are not unfairly discriminatory.

The PRIME and cPRIME fee and rebate structure is reasonable, equitable, and not unfairly discriminatory because it will apply equally to Priority Customer orders, Market Maker orders, Non-MIAX Market Maker orders, Broker Dealer orders, Firm Proprietary orders, and Public Customers that are not Priority Customers orders, in each respective category of PRIME and cPRIME orders. All similarly situated categories of participants are subject to the same transaction fee and rebate schedule, and access to the Exchange is offered on terms that are not unfairly discriminatory. The PRIME and cPRIME fee and rebate structure is reasonably designed because it is intended to incentivize market participants to send complex orders in SPIKES options to the Exchange in order to participate in the price improvement mechanism in a manner that enables the Exchange to improve its overall competitiveness and strengthen its market quality for all market participants.

The fee and rebate structure for transactions involving SPY Opening orders for options that are used in the calculation of the SPIKES Index on final settlement day is reasonable, equitable, and not unfairly discriminatory because it will apply equally to Priority Customer orders, Market Maker orders, Non-MIAX Market Maker orders, Broker Dealer orders, Firm Proprietary orders, and Public Customers that are not Priority Customers orders, in each respective category of such orders. All similarly situated categories of participants are subject to the same transaction fee and rebate schedule, and access to the Exchange is offered on terms that are not unfairly discriminatory.

The Exchange believes that it is equitable and not unfairly discriminatory to adopt fees for the Opening Process in SPY options that will only be applicable on SPIKES settlement day to encourage Market Makers and other market participants that need to unwind a SPIKES hedge to participate in the Opening Auction, by making the pricing more attractive. Specifically, market participants holding short, hedged SPIKES options could liquidate that hedge by selling their SPY options series, while traders holding long, hedged SPIKES options could liquidate their hedge by buying SPY option series. These market participants may liquidate their hedges by submitting SPIKES strategy orders in the appropriate SPY option series during the SPIKES Special Settlement Auction on the SPIKES expiration/final settlement date.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes that the proposed change will enhance the competitiveness of the Exchange relative to other exchanges that offer their own singly-listed products. The Exchange believes that the proposed fees and rebates for transactions in SPIKES index options, and for transactions involving SPY options on SPIKES settlement day, are not going to have an impact on intra-market competition based on the total cost for participants to transact in such order types versus the cost for participants to transact in other order types available for trading on the Exchange. As noted above, the Exchange believes that the proposed pricing for transactions in SPIKES index options, and for transactions involving SPY options on SPIKES settlement day, is comparable to and within the range of fees and rebates charged by the Exchange's competitors offering singly-listed products.[18]

The Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive. In such an environment, the Exchange must continually adjust its

[17] *See* Cboe Fees Schedule, p. 2, Specified Proprietary Options Rate Table—Underlying Symbol List A and Sector Indexes.

[18] *See supra* notes 6, 8 and 9.

fees to remain competitive with other exchanges and to attract order flow to the Exchange. The Exchange believes that the proposed rule change reflects this competitive environment because it establishes a fee structure in a manner that encourages market participants to direct their order flow, to provide liquidity, and to attract additional transaction volume to the Exchange.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act,[19] and Rule 19b–4(f)(2)[20] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email *to rule-comments@sec.gov.* Please include File Number SR–MIAX–2019–11 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–MIAX–2019–11. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–MIAX–2019–11 and should be submitted on or before April 5, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[21]

Eduardo A. Aleman,

Deputy Secretary.

[FR Doc. 2019–04806 Filed 3–14–19; 8:45 am]

BILLING CODE 8011–01–P

[19] 15 U.S.C. 78s(b)(3)(A)(ii).

[20] 17 CFR 240.19b–4(f)(2).

[21] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–85282; File No. SR–FINRA–2018–040]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Order Approving Proposed Rule Change Relating to FINRA Rule 4512 (Customer Account Information)

March 11, 2019.

I. Introduction

On November 28, 2018, the Financial Industry Regulatory Authority, Inc. (''FINRA'') filed with the Securities and Exchange Commission (''SEC'' or ''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 revise FINRA Rule 4512 (Customer Account Information) to permit the use of electronic signatures and to also clarify the scope of the rule.

The proposed rule change was published for comment in the **Federal Register** on December 17, 2018.[3] The Commission received two comment letters regarding the proposed rule change, both supporting the proposed rule change.[4] On January 30, 2019 the Commission extended the time to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to disapprove the proposed rule change to March 17, 2019.[5] For the reasons discussed below, the Commission is approving the proposed rule change.

II. Description of the Proposed Rule Change[6]

FINRA proposed to amend paragraph (a)(3) of FINRA Rule 4512 (Customer Account Information) to permit the use of electronic signatures and to clarify the scope of the rule.

With respect to a discretionary customer account maintained by a member, FINRA Rule 4512(a)(3) currently requires a member to obtain a manual dated signature of each named, natural person authorized to exercise discretion in the account. FINRA stated that because the rule only applies to discretionary accounts maintained by a member, the named natural person would inevitably be an associated person of the firm.[7] Consequently, to

[2] 17 U.S.C. 240.19b–4.

[3] *See* Securities Exchange Act Release No. 84788 (Dec. 11, 2018), 83 FR 64609 (Dec. 17, 2018) (File No. SR–FINRA–2018–040) (''Notice'').

[4] *See* Letters from Paul J. Tolley, Senior Vice President, Chief Compliance Officer, Commonwealth Financial Network, dated December 31, 2018 (''Commonwealth Letter''); and Kevin Zambrowicz, Associate General Counsel & Managing Director, SIFMA, dated January 7, 2019 (''SIFMA Letter'').

[5] *See* Securities Exchange Act Release No. 85003 (Jan. 30, 2019), 84 FR 1809 (Feb. 5, 2019) (File No. SR–FINRA–2018–040) (''Extension'').

[6] The subsequent description of the proposed rule change is substantially excerpted from FINRA's description in the Notice. *See* Notice, 83 FR 64609–10.

[7] There is a corresponding requirement under NASD Rule 2510 (Discretionary Accounts) prohibiting members and their registered representatives from exercising any discretionary power in a customer's account unless the customer has given prior written authorization to a stated individual or individuals, and the account has been accepted by the firm as evidenced in writing by the firm or a designated partner, officer or manager of the firm. These signatures need not be manual. In addition, SEA Rule 17a–3(a)(17)(ii) requires that, for discretionary accounts with a natural person, broker-dealers maintain a record containing the dated signature of each natural person to whom

Continued

comply with the rule, members must obtain the associated person's ''wet'' signature or a copy of his or her wet signature, such as a scanned or faxed copy of the wet signature.[8] Additionally, the rule also requires members to maintain and preserve a record of the signature for at least six years after the date the account is closed.[9]

According to FINRA, the purpose of the signature is to validate that the authorized associated person is who he or she purports to be. FINRA stated that, in light of the industry's shift towards automated and electronic processes, member firms have requested that FINRA reevaluate the need for wet signatures under the rule. FINRA noted that its members have stated that the requirement to obtain wet signatures raises operational and cost concerns without providing meaningful investor protection benefits. In addition, according to FINRA, some members have noted that the requirement puts them at a competitive disadvantage over investment advisers because investment advisers are allowed to obtain electronic signatures. Finally, FINRA noted that members that have adopted automated and electronic processes have stated that the current requirement results in significant administrative inefficiencies, particularly because all other account documentation, including the customer authorization form, and related recordkeeping may be completed electronically through a streamlined process.[10]

In light of technological advances relating to electronic signatures, including with respect to authentication and security, FINRA stated that it believes that the requirement under Rule 4512(a)(3) that members obtain an associated person's wet signature has become obsolete. As a result, FINRA proposed to amend the rule to permit the use of electronic signatures. While FINRA Rule 4512(a)(3) would continue to require members to obtain the signature of an associated person, it would provide firms the option of obtaining either a manual or an electronic signature.

For purposes of compliance with FINRA Rule 4512(a)(3), a valid electronic signature would be any electronic mark that clearly identifies the signatory and is otherwise in compliance with the Electronic Signatures in Global and National Commerce Act (''E-Sign Act''), the guidance issued by the Commission relating to the E-Sign Act,[11] and the guidance provided by FINRA staff through interpretive letters.[12]

In addition to the proposed changes described above, FINRA is proposing to amend Rule 4512(a)(3) to clarify that the rule is limited to discretionary customer accounts maintained by a member for which associated persons of the member are authorized to exercise discretion. Specifically, FINRA is proposing to amend the rule to state that for a discretionary customer account maintained by a member, the member must obtain the dated signature of each named, associated person of the member authorized to exercise discretion in the account.

FINRA has stated that it will announce the effective date of the rule change in a *Regulatory Notice* to be published no later than 60 days following a Commission approval, and the effective date will be no later than 30 days following publication of that *Regulatory Notice*.[13]

III. Comment Summary

As noted above, the Commission received two comment letters on the proposed rule change,[14] both supporting the proposal. Both commenters noted that the requirement to obtain a manual or ''wet'' signature is outdated or generally inconsistent with the move toward an increase in the use of technology, including the use of electronic signatures.[15] One commenter indicated that it already executes essentially all client account and transactional paperwork with the use of electronic signatures, and that the requirement to obtain a manual signature slows down its processes for opening discretionary accounts.[16]

Both commenters noted that the administrative and operational inefficiencies and burdens resulting from the requirement to obtain manual signatures place member firms at a competitive disadvantage against investment advisers that are not subject to such a requirement without providing additional investor protections.[17] The commenters support the proposed rule change, and one commenter urged the Commission and FINRA to consider other opportunities to eliminate manual signature requirements in favor of electronic methods.[18]

IV. Discussion and Commission Findings

After careful consideration of the proposed rule change and the comment letters, the Commission finds that the proposal is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities association.[19] Specifically, the Commission finds that the proposed rule change is consistent with Section 15A(b)(6) of the Act,[20] which requires, among other things, that FINRA rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. The Commission believes that the proposal will simplify the process by which member firms validate the identity of an authorized associated person, and thereby lower costs to member firms by reducing operational inefficiencies. Moreover, the Commission believes the proposed rule change is reasonably designed to prevent fraudulent practices in connection with the use of electronic signatures because it provides that a valid electronic signature would be any electronic mark that clearly identifies the signatory and is otherwise in compliance with the E-Sign Act. The proposed rule change is also consistent with Commission guidance relating to the E-Sign Act, and prior FINRA staff guidance regarding electronic signatures.[21]

discretionary authority was granted. This signature also need not be manual.

[8] The terms ''manual'' and ''wet'' are used interchangeably in this proposed rule change.

[9] For retention purposes, members may choose to maintain and preserve the signature record on any of the acceptable media specified in SEA Rule 17a–4, including electronic storage media consistent with SEA Rule 17a–4(f).

[10] To comply with FINRA Rule 4512(a)(3), most of these firms currently print a paper copy of the account record and require that the authorized associated person physically sign it. They then convert the paper record to an electronic record for retention on electronic storage media. These firms have stated that this two-step process creates unnecessary inefficiencies and administrative burdens.

[11] *See* Securities Exchange Act Release No. 44238 (May 1, 2001), 66 FR 22916 (May 7, 2001) (Commission Guidance to Broker-Dealers on the Use of Electronic Storage Media Under the Electronic Signatures in Global and National Commerce Act of 2000 with Respect to Rule 17a–4(f)).

[12] *See, e.g.,* Letter from Nancy Libin, NASD, to Jeffrey W. Kilduff, O'Melveny & Myers, LLP, dated July 5, 2001, *http://www.finra.org/industry/interpretive-letters/july-5-2001-1200am.*

[13] *See* Notice, 83 FR at 64610.

[14] *See supra* note 6.

[15] *See* Commonwealth Letter at 1–2; *see also* SIFMA Letter at 1.

[16] *See* Commonwealth Letter at 2.

[17] *See* Commonwealth Letter at 1; *see also* SIFMA Letter at 2.

[18] *See* Commonwealth Letter at 2; *see also* SIFMA Letter at 3.

[19] In approving this rule change, the Commission has considered the rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

[20] 15 U.S.C. 78*o*–3(b)(6).

[21] *See supra* notes 11–12 and accompanying text.

For these reasons, the Commission believes the proposed rule change is consistent with the Act.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[22] that the proposed rule change (SR–FINRA–2018–040) is approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[23]

Eduardo A. Aleman,

Deputy Secretary.

[FR Doc. 2019–04808 Filed 3–14–19; 8:45 am]

BILLING CODE 8011–01–P

[22] 15 U.S. C. 78s(b)(2).

[23] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 33395; 812–14929]

O'Shaughnessy Asset Management, LLC, et al.

March 11, 2019.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice.

Notice of an application for an order under section 6(c) of the Investment Company Act of 1940 (the ''Act'') for an exemption from sections 2(a)(32), 5(a)(1), 22(d), and 22(c) of the Act and rule 22c-1 under the Act, under sections 6(c) and 17(b) of the Act for an exemption from sections 17(a)(1) and 17(a)(2) of the Act, and under section 12(d)(1)(J) for an exemption from sections 12(d)(1)(A) and 12(d)(1)(B) of the Act. The requested order would permit (a) index-based series of certain open-end management investment companies (''Funds'') to issue shares redeemable in large aggregations (''Creation Units''); (b) secondary market transactions in Fund shares to occur at negotiated market prices rather than at net asset value (''NAV''); (c) certain Funds to pay redemption proceeds, under certain circumstances, more than seven days after the tender of shares for redemption; (d) certain affiliated persons of a Fund to deposit securities into, and receive securities from, the Fund in connection with the purchase and redemption of Creation Units; and © certain registered management investment companies and unit investment trusts outside of the same group of investment companies as the Funds (''Funds of Funds'') to acquire shares of the Funds.

APPLICANTS: O'Shaughnessy Asset Management, LLC (the ''Initial Adviser''), a Delaware limited liability company registered as an investment adviser under the Investment Advisers Act of 1940; Advisors Series Trust (the ''Trust''), a statutory trust created under the Delaware Statutory Trust Act and registered under the Act as an open-end management investment company; and Quasar Distributors, LLC (the ''Initial Distributor''), a Delaware limited liability company and broker-dealer registered under the Securities Exchange Act of 1934 (''Exchange Act'').

FILING DATES: The application was filed on July 18, 2018, and amended on November 19, 2018 and March 1, 2019.

HEARING OR NOTIFICATION OF HEARING: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on April 5, 2019, and should be accompanied by proof of service on applicants, in the form of an affidavit, or for lawyers, a certificate of service. Pursuant to rule 0–5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090; Applicants: O'Shaughnessy Asset Management, LLC, 6 Suburban Avenue, Stamford, CT 06901; Advisors Series Trust, 615 East Michigan Street, Milwaukee, WI 53202; Quasar Distributors, LLC, 777 East Wisconsin Avenue, Milwaukee, Wisconsin 53202.

FOR FURTHER INFORMATION CONTACT: Thankam A. Varghese, Attorney-Adviser, at (202) 551–6446, or Parisa Haghshenas, Branch Chief, at (202) 551–6723 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission's website by searching for the file number, or for an applicant using the Company name box, at *http://www.sec.gov/search/search.htm* or by calling (202) 551–8090.

Summary of the Application

1. Applicants request an order that would allow Funds to operate as index exchange traded funds (''ETFs'').[1] Fund shares will be purchased and redeemed at their NAV in Creation Units (other than pursuant to a distribution reinvestment program, as described in the application). All orders to purchase Creation Units and all redemption requests will be placed by or through an ''Authorized Participant,'' which will have signed a participant agreement with the Distributor. Shares will be listed and traded individually on a national securities exchange, where share prices will be based on the current bid/offer market. Any order granting the requested relief would be subject to the terms and conditions stated in the application.

2. Each Fund will hold investment positions selected to correspond closely to the performance of an Underlying Index. In the case of Self-Indexing Funds, an affiliated person, as defined in section 2(a)(3) of the Act (''Affiliated Person''), or an affiliated person of an Affiliated Person (''Second-Tier Affiliate''), of the Trust or a Fund, of the Adviser, of any sub-adviser to or promoter of a Fund, or of the Distributor will compile, create, sponsor or maintain the Underlying Index.[2]

3. Shares will be purchased and redeemed in Creation Units and generally on an in-kind basis, or issued in less than Creation Unit size to investors participating in a distribution reinvestment program. Except where the purchase or redemption will include cash under the limited circumstances specified in the application, purchasers will be required to purchase Creation Units by depositing specified

[1] Applicants request that the order apply to the initial fund and any additional series of the Trust and any other existing or future open-end management investment company or future series thereof (each, included in the term ''Fund''), each of which will operate as an ETF and will track a specified index comprised of domestic and/or foreign equity securities and/or domestic and/or foreign fixed income securities (each, an ''Underlying Index''). Each Fund will (a) be advised by the Initial Adviser or an entity controlling, controlled by, or under common control with the Initial Adviser (each such entity and any successor thereto, an ''Adviser'') and (b) comply with the terms and conditions of the application. For purposes of the requested order, the term ''successor'' is limited to an entity or entities that result from a reorganization into another jurisdiction or a change in the type of business organization.

[2] Each Self-Indexing Fund will post on its website the identities and quantities of the investment positions that will form the basis for the Fund's calculation of its NAV at the end of the day. Applicants believe that requiring Self-Indexing Funds to maintain full portfolio transparency will help address, together with other protections, conflicts of interest with respect to such Funds.

instruments (''Deposit Instruments''), and shareholders redeeming their shares will receive specified instruments (''Redemption Instruments''). The Deposit Instruments and the Redemption Instruments will each correspond pro rata to the positions in the Fund's portfolio (including cash positions) except as specified in the application.

4. Because shares will not be individually redeemable, applicants request an exemption from section 5(a)(1) and section 2(a)(32) of the Act that would permit the Funds to register as open-end management investment companies and issue shares that are redeemable in Creation Units.

5. Applicants also request an exemption from section 22(d) of the Act and rule 22c–1 under the Act as secondary market trading in shares will take place at negotiated prices, not at a current offering price described in a Fund's prospectus, and not at a price based on NAV. Applicants state that (a) secondary market trading in shares does not involve a Fund as a party and will not result in dilution of an investment in shares, and (b) to the extent different prices exist during a given trading day, or from day to day, such variances occur as a result of third-party market forces, such as supply and demand. Therefore, applicants assert that secondary market transactions in shares will not lead to discrimination or preferential treatment among purchasers. Finally, applicants represent that share market prices will be disciplined by arbitrage opportunities, which should prevent shares from trading at a material discount or premium from NAV.

6. With respect to Funds that effect creations and redemptions of Creation Units in kind and that are based on certain Underlying Indexes that include foreign securities, applicants request relief from the requirement imposed by section 22(c) in order to allow such Funds to pay redemption proceeds within fifteen calendar days following the tender of Creation Units for redemption. Applicants assert that the requested relief would not be inconsistent with the spirit and intent of section 22(c) to prevent unreasonable, undisclosed or unforeseen delays in the actual payment of redemption proceeds.

7. Applicants request an exemption to permit Funds of Funds to acquire Fund shares beyond the limits of section 12(d)(1)(A) of the Act; and the Funds, and any principal underwriter for the Funds, and/or any broker or dealer registered under the Exchange Act, to sell shares to Funds of Funds beyond the limits of section 12(d)(1)(B) of the Act. The application's terms and conditions are designed to, among other things, help prevent any potential (i) undue influence over a Fund through control or voting power, or in connection with certain services, transactions, and underwritings, (ii) excessive layering of fees, and (iii) overly complex fund structures, which are the concerns underlying the limits in sections 12(d)(1)(A) and (B) of the Act.

8. Applicants request an exemption from sections 17(a)(1) and 17(a)(2) of the Act to permit persons that are Affiliated Persons, or Second-Tier Affiliates, of the Funds, solely by virtue of certain ownership interests, to effectuate purchases and redemptions in-kind. The deposit procedures for in-kind purchases of Creation Units and the redemption procedures for in-kind redemptions of Creation Units will be the same for all purchases and redemptions, and Deposit Instruments and Redemption Instruments will be valued in the same manner as those investment positions currently held by the Funds. Applicants also seek relief from the prohibitions on affiliated transactions in section 17(a) to permit a Fund to sell its shares to and redeem its shares from a Fund of Funds, and to engage in the accompanying in-kind transactions with the Fund of Funds.[3] The purchase of Creation Units by a Fund of Funds directly from a Fund will be accomplished in accordance with the policies of the Fund of Funds and will be based on the NAVs of the Funds.

9. Section 6(c) of the Act permits the Commission to exempt any persons or transactions from any provision of the Act if such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Section 12(d)(1)(J) of the Act provides that the Commission may exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from any provision of section 12(d)(1) if the exemption is consistent with the public interest and the protection of investors. Section 17(b) of the Act authorizes the Commission to grant an order permitting a transaction otherwise prohibited by section 17(a) if it finds that (a) the terms of the proposed transaction are fair and reasonable and do not involve overreaching on the part of any person concerned; (b) the proposed transaction is consistent with the policies of each registered investment company involved; and (c) the proposed transaction is consistent with the general purposes of the Act.

For the Commission, by the Division of Investment Management, under delegated authority.

Eduardo A. Aleman,

Deputy Secretary.

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BILLING CODE 8011–01–P

[3] The requested relief would apply to direct sales of shares in Creation Units by a Fund to a Fund of Funds and redemptions of those shares. Applicants are not seeking relief from section 17(a) for, and the requested relief will not apply to, transactions where a Fund could be deemed an Affiliated Person, or a Second-Tier Affiliate, of a Fund of Funds because an Adviser or an entity controlling, controlled by or under common control with an Adviser provides investment advisory services to that Fund of Funds.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–85287/March 11, 2019]

Order Making Fiscal Year 2019 Annual Adjustments to Transaction Fee Rates

I. Background

Section 31 of the Securities Exchange Act of 1934 (''Exchange Act'') requires each national securities exchange and national securities association to pay transaction fees to the Commission.[1] Specifically, Section 31(b) requires each national securities exchange to pay to the Commission fees based on the aggregate dollar amount of sales of certain securities (''covered sales'') transacted on the exchange.[2] Section 31(c) requires each national securities association to pay to the Commission fees based on the aggregate dollar amount of covered sales transacted by or through any member of the association other than on an exchange.[3]

Section 31 of the Exchange Act requires the Commission to annually adjust the fee rates applicable under Sections 31(b) and (c) to a uniform adjusted rate.[4] Specifically, the Commission must adjust the fee rates to a uniform adjusted rate that is reasonably likely to produce aggregate fee collections (including assessments on security futures transactions) equal to the regular appropriation to the Commission for the applicable fiscal year.[5]

[1] 15 U.S.C. 78ee.

[2] 15 U.S.C. 78ee(b).

[3] 15 U.S.C. 78ee(c).

[4] In some circumstances, the SEC also must make a mid-year adjustment to the fee rates applicable under Sections 31(b) and (c).

[5] 15 U.S.C. 78ee(j)(1) (the Commission must adjust the rates under Sections 31(b) and (c) to a ''uniform adjusted rate that, when applied to the baseline estimate of the aggregate dollar amount of sales for such fiscal year, is reasonably likely to produce aggregate fee collections under [Section 31] (including assessments collected under [Section

The Commission is required to publish notice of the new fee rates under Section 31 not later than 30 days after the date on which an Act making a regular appropriation for the applicable fiscal year is enacted.[6] On February 15, 2019, the President signed into law the Consolidated Appropriations Act, 2019, which includes total appropriations of $1,712,091,000 to the SEC for fiscal year 2019.

II. Fiscal Year 2019 Annual Adjustment to the Fee Rate

The new fee rate is determined by (1) subtracting the sum of fees estimated to be collected prior to the effective date of the new fee rate[7] and estimated assessments on security futures transactions to be collected under Section 31(d) of the Exchange Act for all of fiscal year 2019[8] from an amount equal to the regular appropriation to the Commission for fiscal year 2019, and (2) dividing by the estimated aggregate dollar amount of covered sales for the remainder of the fiscal year following the effective date of the new fee rate.[9]

As noted above, the Consolidated Appropriations Act, 2019, includes total appropriations of $1,712,091,000 to the Commission for fiscal year 2019.[10] The Commission estimates that it will collect $740,970,262 in fees for the period prior to the effective date of the new fee rate and $23,127 in assessments on round turn transactions in security futures products during all of fiscal year 2019. Using the methodology described in Appendix A, the Commission estimates that the aggregate dollar amount of covered sales for the remainder of fiscal year 2019 to be $46,958,135,950,927.

The uniform adjusted rate is computed by dividing the residual fees to be collected of $971,097,612 by the estimated aggregate dollar amount of covered sales for the remainder of fiscal year 2019 of $46,958,135,950,927; this results in a uniform adjusted rate for fiscal year 2019 of $20.70 per million.[11]

III. Effective Date of the Uniform Adjusted Rate

Under Section 31(j)(4)(A) of the Exchange Act, the fiscal year 2019 annual adjustments to the fee rates applicable under Sections 31(b) and (c) of the Exchange Act shall take effect on the later of October 1, 2018, or 60 days after the date on which a regular appropriation to the Commission for fiscal year 2019 is enacted.[12] The regular appropriation to the Commission for fiscal year 2019 was enacted on February 15, 2019, and accordingly, the new fee rates applicable under Sections 31(b) and (c) of the Exchange Act will take effect on April 16, 2019.

IV. Conclusion

Accordingly, pursuant to Section 31 of the Exchange Act,

It is hereby ordered that the fee rates applicable under Sections 31(b) and (c) of the Exchange Act shall be $20.70 per $1,000,000 effective on April 16, 2019.

By the Commission.

Eduardo A. Aleman,

Deputy Secretary.

Appendix A

This appendix provides the methodology for determining the annual adjustment to the fee rates applicable under Sections 31(b) and (c) of the Exchange Act for fiscal year 2019. Section 31 of the Exchange Act requires the fee rates to be adjusted so that it is reasonably likely that the Commission will collect aggregate fees equal to its regular appropriation for fiscal year 2019.

To make the adjustment, the Commission must project the aggregate dollar amount of covered sales of securities on the securities exchanges and certain over-the-counter (''OTC'') markets over the course of the year. The fee rate equals the ratio of the Commission's regular appropriation for fiscal year 2019 (less the sum of fees to be collected during fiscal year 2019 prior to the effective date of the new fee rate and aggregate assessments on security futures transactions during all of fiscal year 2019) to the estimated aggregate dollar amount of covered sales for the remainder of the fiscal year following the effective date of the new fee rate.

For 2019, the Commission has estimated the aggregate dollar amount of covered sales by projecting forward the trend established in the previous decade. More specifically, the dollar amount of covered sales was forecasted for months subsequent to January 2019, the last month for which the Commission has data on the dollar volume of covered sales.[13]

The following sections describe this process in detail.

A. Baseline Estimate of the Aggregate Dollar Amount of Covered Sales for Fiscal Year 2019

First, calculate the average daily dollar amount of covered sales (''ADS'') for each month in the sample (December 2008–January 2019). The monthly total dollar amount of covered sales (exchange plus certain OTC markets) is presented in column C of Table A.

Next, model the monthly change in the natural logarithm of ADS as a first order autoregressive process (''AR(1)''), including monthly indicator variables to control for seasonality.

Use the estimated AR(1) model to forecast the monthly change in the log level of ADS. These percent changes can then be applied to obtain forecasts of the total dollar volume of covered sales. The following is a more formal (mathematical) description of the procedure:

1. Begin with the monthly data for total dollar volume of covered sales (column C). The sample spans ten years, from December 2008–January 2019.[14] Divide each month's total dollar volume by the number of trading days in that month (column B) to obtain the average daily dollar volume (ADS, column D).

2. For each month *t,* calculate Δ LN ADS (shown in column E) as the log growth rate of ADS, that is, the difference between the natural logarithm of ADS in month *t* and its value in the prior month.

3. Estimate the AR(1) model

31(d)]) that are equal to the regular appropriation to the Commission by Congress for such fiscal year.'').

[6] 15 U.S.C. 78ee(g).

[7] The sum of fees to be collected prior to the effective date of the new fee rate is determined by applying the current fee rate to the dollar amount of covered sales prior to the effective date of the new fee rate. The exchanges and FINRA have provided data on the dollar amount of covered sales through January, 2019. To calculate the dollar amount of covered sales from February, 2019 to the effective date of the new fee rate, the Commission is using the methodology described in the Appendix A of this order.

[8] The Commission is using the same methodology it has used previously to estimate assessments on security futures transactions to be collected in fiscal year 2019. An explanation of the methodology appears in Appendix A.

[9] To estimate the aggregate dollar amount of covered sales for the remainder of fiscal year 2019 following the effective date of the new fee rate, the Commission is using the methodology described in Appendix A of this order.

[10] The Consolidated Appropriations Act, 2019 includes an appropriation of $1,674,902,000 for necessary expenses for the Commission and an appropriation of $37,189,000 for costs associated with relocation under a replacement lease for the Commission's New York regional office facilities. The act provides that ''for purposes of calculating the fee rate under section 31(j) of the [Exchange Act] for fiscal year 2019, all amounts appropriated [to the Commission in the act] shall be deemed to be the regular appropriation to the Commission for fiscal year 2019.''

[11] Appendix A shows the process of calculating the fiscal year 2019 annual adjustment and includes the data used by the Commission in making this adjustment.

[12] 15 U.S.C. 78ee(j)(4)(A).

[13] To determine the availability of data, the Commission compares the date of the appropriation with the date the transaction data are due from the exchanges (10 business days after the end of the month). If the business day following the date of the appropriation is equal to or subsequent to the date the data are due from the exchanges, the Commission uses these data. The appropriation was signed on February 15, 2019. The first business day after this date was February 19, 2019. Data for January 2019 were due from the exchanges on February 14, 2019. As a result, the Commission used January 2019 and earlier data to forecast volume for February 2019 and later months.

[14] Because the model uses a one period lag in the *change* in the log level of average daily sales, two additional months of data are added to the table so that the model is estimated with 120 observations.

$$y_t = \beta y_{t-1} + \sum_{m=1}^{12} \alpha_m D_t^m + \varepsilon_t$$

with D_t^m representing monthly indicator variables, y_t representing the log growth rate in ADS (Δ LN ADS), and ε_t representing the error term for month *t*. The model can be estimated using standard commercially available software. The estimated parameter values are $\hat{\beta} = -0.2692$ and $\hat{\alpha}_1 - \hat{\alpha}_{12}$ as follows:

$\hat{\alpha}_1$ (*JAN*) = 0.0386, $\hat{\alpha}_2$ (*FEB*) = 0.0773, $\hat{\alpha}_3$ (*MAR*) = −0.0251, $\hat{\alpha}_4$ (*APR*) = −0.0565, $\hat{\alpha}_5$ (*MAY*) = 0.0279, $\hat{\alpha}_6$ (*JUN*) = 0.0042, $\hat{\alpha}_7$ (*JUL*) = −0.0918, $\hat{\alpha}_8$ (*AUG*) = −0.0039, $\hat{\alpha}_9$ (*SEP*) = 0.0560, $\hat{\alpha}_{10}$ (*OCT*) = 1.0594, $\hat{\alpha}_{11}$ (*NOV*) = −0.0117, $\hat{\alpha}_{12}$ (*DEC*) = −0.0069. The root-mean squared error (RMSE) of the regression is 0.1037.

4. For the first month calculate the forecasted value of the log growth rate of ADS as

$$\hat{y}_t = \hat{\beta} y_{t-1} + \sum_{m=1}^{12} \hat{\alpha}_m D_{mt}$$

For the next month use the forecasted value of the log growth rate of the first month to calculate the forecast of the next month. This process iterates until a forecast is generated for all remaining months in the fiscal year. These data appear in column F.

5. Assuming that the regression error in the AR(1) model is normally distributed, the expected percentage change in average daily dollar volume from month $t-1$ to month t is then given by the expression exp $(\hat{\beta} y_{t-1} + \frac{1}{2}\sigma^2) - 1$, where denotes the root mean squared error of the regression (RMSE).

6. For instance, for February 2019, using the $\hat{\beta}$ parameter and the $\hat{\alpha}$ parameter (for February) above, and the change in the log-level ADS from January, 2019, we can estimate the change in the log growth in average daily sales as $\hat{\beta} y_{Jan} + \hat{\alpha}_{Feb} = ((-0.2692 \times -0.2311) + 0.0773) = +0.1395$ This represents the estimated *change* in log average daily dollar volume for February 2019 relative to January 2019. To estimate the percent change in average daily sales from January 2019 to February 2019, use the formula shown in Step 5, above: exp $(+0.1395 + \frac{1}{2}\, 0.1037^2) - 1 = +0.1559$. Apply this estimated percent change in ADS to the ADS for January 2019 to estimate the ADS for February 2019 as $379,079,268,750 × (1 + 0.1559) = $438,192,488,788. Multiply this by the 19 trading days in February 2019 to obtain a total dollar volume forecast of $8,325,657,286,963.

7. For March 2019, proceed in a similar fashion. Using the estimates for February 2019 along with the $\hat{\beta}$ parameter and the $\hat{\alpha}_3$ parameter (for March) to generate a forecast for the one-month change in the log level of average daily sales. Convert the estimated log change in average daily sales to estimated percent change in ADS as in step 6, above to obtain a forecast ADS of $413,789,951,878. Multiply this figure by the 21 trading days in March 2019 to obtain a total dollar volume forecast of $8,689,588,989,442.

8. Repeat this procedure for subsequent months.

B. Using the Forecasts From A To Calculate the New Fee Rate

1. Use Table A to estimate fees collected for the period October 1, 2018 through April 15, 2019. The projected aggregate dollar amount of covered sales for this period is $56,997,712,431,458. Actual and projected fee collections at the current fee rate of $13.00 per million are $740,970,262.

2. Estimate the amount of assessments on security futures products collected from October 1, 2018 through September 30, 2019. First, calculate the average and the standard deviation of the change in log average daily sales, in column E, for the 120 months ending January 2019. The average is 0.004038 and the standard deviation is 0.111345. These are used to estimate an average growth rate in ADS using the formula $(0.004038 + \frac{1}{2}\, 0.111345^2) - 1$. This results in an average monthly increase of 1.029%. Apply this monthly increase to the last month for which single stock futures' assessments are available, which was $1,701.13, for January 2019. Estimate all subsequent months in fiscal year 2019 by applying the growth rate to the previously estimated monthly value, and sum the results. This totals $23,126.73 for the entire fiscal year.

3. Subtract the amounts $740,970,262 and $23,127 from the target off-setting collection amount set by Congress of $1,712,091,000, leaving $971,097,612 to be collected on dollar volume for the period April 16, 2019 through September 30, 2019.

4. Use Table A to estimate dollar volume for the period April 16, 2019 through September 30, 2019. The estimate is $46,958,135,950,927. Finally, compute the fee rate required to produce the additional $971,097,612 in revenue. This rate is $971,097,612 divided by $46,958,135,950,927 or 0.00002068007.

5. Round the result to the seventh decimal point, yielding a rate of 0.0000207 (or $20.70 per million).

This table summarizes the estimates of the aggregate dollar amount of covered sales, by time period. The figures in this table can be used to determine the new fee rate.

TABLE A—BASELINE ESTIMATE OF THE AGGREGATE DOLLAR AMOUNT OF SALES

[Fee rate calculation]

a. Baseline estimate of the aggregate dollar amount of sales, 10/01/2018 to 03/31/2019 ($Millions)	52,599,495
b. Baseline estimate of the aggregate dollar amount of sales, 04/01/2019 to 04/15/2019 ($Millions)	4,398,217
c. Baseline estimate of the aggregate dollar amount of sales, 04/16/2019 to 04/30/2019 ($Millions)	3,998,379
d. Baseline estimate of the aggregate dollar amount of sales, 05/01/2019 to 09/30/2019 ($Millions)	42,959,756
e. Estimated collections in assements on security futures products in fiscal year 2019 ($Millions)	0.023
f. Implied fee rate (($1,712,091,000 − $13.00 * (a + b) − e)/(c + d)	$20.70

Month (A)	Number of trading days in month (B)	Total dollar amount of sales (C)	Average daily dollar amount of sales (ADS) (D)	Δ LN ADS (E)	Forecast Δ LN ADS (F)	Forecast average daily dollar amount of sales (G)	Forecast total dollar amount of sales (H)
Dec–08	22	5,176,041,317,640	235,274,605,347	#N/A			
Jan–09	20	4,670,249,433,806	233,512,471,690	−0.00752			
Feb–09	19	4,771,470,184,048	251,130,009,687	0.07274			
Mar–09	22	5,885,594,284,780	267,527,012,945	0.06325			
Apr–09	21	5,123,665,205,517	243,984,057,406	−0.09212			
May–09	20	5,086,717,129,965	254,335,856,498	0.04155			
Jun–09	22	5,271,742,782,609	239,624,671,937	−0.05958			
Jul–09	22	4,659,599,245,583	211,799,965,708	−0.12343			
Aug–09	21	4,582,102,295,783	218,195,347,418	0.02975			
Sep–09	21	4,929,155,364,888	234,721,684,042	0.07301			
Oct–09	22	5,410,025,301,030	245,910,240,956	0.04657			
Nov–09	20	4,770,928,103,032	238,546,405,152	−0.03040			
Dec–09	22	4,688,555,303,171	213,116,150,144	−0.11273			
Jan–10	19	4,661,793,708,648	245,357,563,613	0.14088			
Feb–10	19	4,969,848,578,023	261,570,977,791	0.06399			

Month (A)	Number of trading days in month (B)	Total dollar amount of sales (C)	Average daily dollar amount of sales (ADS) (D)	Δ LN ADS (E)	Forecast Δ LN ADS (F)	Forecast average daily dollar amount of sales (G)	Forecast total dollar amount of sales (H)
Mar–10	23	5,563,529,823,621	241,892,601,027	−0.07821			
Apr–10	21	5,546,445,874,917	264,116,470,234	0.08790			
May–10	20	7,260,430,376,294	363,021,518,815	0.31807			
Jun–10	22	6,124,776,349,285	278,398,924,967	−0.26541			
Jul–10	21	5,058,242,097,334	240,868,671,302	−0.14480			
Aug–10	22	4,765,828,263,463	216,628,557,430	−0.10607			
Sep–10	21	4,640,722,344,586	220,986,778,314	0.01992			
Oct–10	21	5,138,411,712,272	244,686,272,013	0.10187			
Nov–10	21	5,279,700,881,901	251,414,327,710	0.02713			
Dec–10	22	4,998,574,681,208	227,207,940,055	−0.10124			
Jan–11	20	5,043,391,121,345	252,169,556,067	0.10424			
Feb–11	19	5,114,631,590,581	269,191,136,346	0.06532			
Mar–11	23	6,499,355,385,307	282,580,668,926	0.04854			
Apr–11	20	4,975,954,868,765	248,797,743,438	−0.12732			
May–11	21	5,717,905,621,053	272,281,220,050	0.09020			
Jun–11	22	5,820,079,494,414	264,549,067,928	−0.02881			
Jul–11	20	5,189,681,899,635	259,484,094,982	−0.01933			
Aug–11	23	8,720,566,877,109	379,155,081,613	0.37925			
Sep–11	21	6,343,578,147,811	302,075,149,896	−0.22727			
Oct–11	21	6,163,272,963,688	293,489,188,747	−0.02884			
Nov–11	21	5,493,906,473,584	261,614,593,980	−0.11497			
Dec–11	21	5,017,867,255,600	238,946,059,790	−0.09063			
Jan–12	20	4,726,522,206,487	236,326,110,324	−0.01103			
Feb–12	20	5,011,862,514,132	250,593,125,707	0.05862			
Mar–12	22	5,638,847,967,025	256,311,271,228	0.02256			
Apr–12	20	5,084,239,396,560	254,211,969,828	−0.00822			
May–12	22	5,611,638,053,374	255,074,456,972	0.00339			
Jun–12	21	5,121,896,896,362	243,899,852,208	−0.04480			
Jul–12	21	4,567,519,314,374	217,500,919,732	−0.11455			
Aug–12	23	4,621,597,884,730	200,939,038,467	−0.07920			
Sep–12	19	4,598,499,962,682	242,026,313,825	0.18604			
Oct–12	21	5,095,175,588,310	242,627,408,967	0.00248			
Nov–12	21	4,547,882,974,292	216,565,855,919	−0.11363			
Dec–12	20	4,744,922,754,360	237,246,137,718	0.09120			
Jan–13	21	5,079,603,817,496	241,885,896,071	0.01937			
Feb–13	19	4,800,663,527,089	252,666,501,426	0.04360			
Mar–13	20	4,917,701,839,870	245,885,091,993	−0.02721			
Apr–13	22	5,451,358,637,079	247,789,028,958	0.00771			
May–13	22	5,681,788,831,869	258,263,128,721	0.04140			
Jun–13	20	5,623,545,462,226	281,177,273,111	0.08501			
Jul–13	22	5,083,861,509,754	231,084,614,080	−0.19620			
Aug–13	22	4,925,611,193,095	223,891,417,868	−0.03162			
Sep–13	20	4,959,197,626,713	247,959,881,336	0.10211			
Oct–13	23	5,928,804,028,970	257,774,088,216	0.03882			
Nov–13	20	5,182,024,612,049	259,101,230,602	0.00514			
Dec–13	21	5,265,282,994,173	250,727,761,627	−0.03285			
Jan–14	21	5,808,700,114,288	276,604,767,347	0.09822			
Feb–14	19	6,018,926,931,054	316,785,627,950	0.13564			
Mar–14	21	6,068,617,342,988	288,981,778,238	−0.09186			
Apr–14	21	6,013,948,953,528	286,378,521,597	−0.00905			
May–14	21	5,265,594,447,318	250,742,592,729	−0.13289			
Jun–14	21	5,159,506,989,669	245,690,809,032	−0.02035			
Jul–14	22	5,364,099,567,460	243,822,707,612	−0.00763			
Aug–14	21	5,075,332,147,677	241,682,483,223	−0.00882			
Sep–14	21	5,507,943,363,243	262,283,017,297	0.08180			
Oct–14	23	7,796,638,035,879	338,984,262,430	0.25653			
Nov–14	19	5,340,847,027,697	281,097,211,984	−0.18725			
Dec–14	22	6,559,110,068,128	298,141,366,733	0.05887			
Jan–15	20	6,185,619,541,044	309,280,977,052	0.03668			
Feb–15	19	5,723,523,235,641	301,238,065,034	−0.02635			
Mar–15	22	6,395,046,297,249	290,683,922,602	−0.03566			
Apr–15	21	5,625,548,298,004	267,883,252,286	−0.08169			
May–15	20	5,521,351,972,386	276,067,598,619	0.03009			
Jun–15	22	6,005,521,460,806	272,978,248,218	−0.01125			
Jul–15	22	6,493,670,315,390	295,166,832,518	0.07815			
Aug–15	21	6,963,901,249,270	331,614,345,203	0.11643			
Sep–15	21	6,434,496,770,897	306,404,608,138	−0.07907			
Oct–15	22	6,592,594,708,082	299,663,395,822	−0.02225			
Nov–15	20	5,822,824,015,945	291,141,200,797	−0.02885			
Dec–15	22	6,384,337,478,801	290,197,158,127	−0.00325			
Jan–16	19	6,696,059,796,055	352,424,199,792	0.19428			
Feb–16	20	6,659,878,908,747	332,993,945,437	−0.05671			
Mar–16	22	6,161,943,754,542	280,088,352,479	−0.17302			
Apr–16	21	5,541,076,988,322	263,860,808,968	−0.05968			
May–16	21	5,693,520,415,112	271,120,019,767	0.02714			
Jun–16	22	6,317,212,852,759	287,146,038,762	0.05743			
Jul–16	20	5,331,797,261,269	266,589,863,063	−0.07428			

Month	Number of trading days in month	Total dollar amount of sales	Average daily dollar amount of sales (ADS)	Δ LN ADS	Forecast Δ LN ADS	Forecast average daily dollar amount of sales	Forecast total dollar amount of sales
(A)	(B)	(C)	(D)	(E)	(F)	(G)	(H)
Aug–16	23	5,635,976,607,786	245,042,461,208	−0.08428			
Sep–16	21	5,942,072,286,976	282,955,823,189	0.14386			
Oct–16	21	5,460,906,573,682	260,043,170,175	−0.08444			
Nov–16	21	6,845,287,809,886	325,966,086,185	0.22595			
Dec–16	21	6,208,579,880,985	295,646,660,999	−0.09763			
Jan–17	20	5,598,200,907,603	279,910,045,380	−0.05470			
Feb–17	19	5,443,426,609,533	286,496,137,344	0.02326			
Mar–17	23	6,661,861,914,530	289,646,170,197	0.01094			
Apr–17	19	5,116,714,033,499	269,300,738,605	−0.07283			
May–17	22	6,305,822,460,672	286,628,293,667	0.06236			
Jun–17	22	6,854,993,097,601	311,590,595,346	0.08350			
Jul–17	20	5,394,333,070,522	269,716,653,526	−0.14432			
Aug–17	23	6,206,204,906,864	269,834,995,951	0.00044			
Sep–17	20	5,939,886,169,525	296,994,308,476	0.09590			
Oct–17	22	6,134,529,538,894	278,842,251,768	−0.06307			
Nov–17	21	6,289,748,560,897	299,511,836,233	0.07151			
Dec–17	20	6,672,181,323,001	333,609,066,150	0.10782			
Jan–18	21	7,672,288,677,308	365,347,079,872	0.09088			
Feb–18	19	8,725,420,462,639	459,232,655,928	0.22871			
Mar–18	21	8,264,755,011,030	393,559,762,430	−0.15432			
Apr–18	21	7,490,308,402,446	356,681,352,497	−0.09839			
May–18	22	7,242,077,467,179	329,185,339,417	−0.08022			
Jun–18	21	7,936,783,802,579	377,942,085,837	0.13812			
Jul–18	21	6,807,593,326,456	324,171,110,784	−0.15347			
Aug–18	23	7,363,115,444,274	320,135,454,099	−0.01253			
Sep–18	19	6,781,988,459,996	356,946,761,052	0.10884			
Oct–18	23	10,133,514,480,998	440,587,586,130	0.21052			
Nov–18	21	8,414,847,862,204	400,707,041,057	−0.09488			
Dec–18	19	9,075,221,733,736	477,643,249,144	0.17563			
Jan–19	21	7,960,664,643,749	379,079,268,750	−0.23112			
Feb–19	19				0.1395	438,192,488,788	8,325,657,286,963
Mar–19	21				−0.0627	413,789,951,878	8,689,588,989,442
Apr–19	21				−0.0397	399,837,948,579	8,396,596,920,153
May–19	22				0.0386	417,801,508,030	9,191,633,176,654
Jun–19	20				−0.0062	417,455,061,409	8,349,101,228,188
Jul–19	22				−0.0901	383,542,454,021	8,437,933,988,469
Aug–19	22				0.0204	393,541,847,373	8,657,920,642,210
Sep–19	20				0.0505	416,158,371,481	8,323,167,429,618

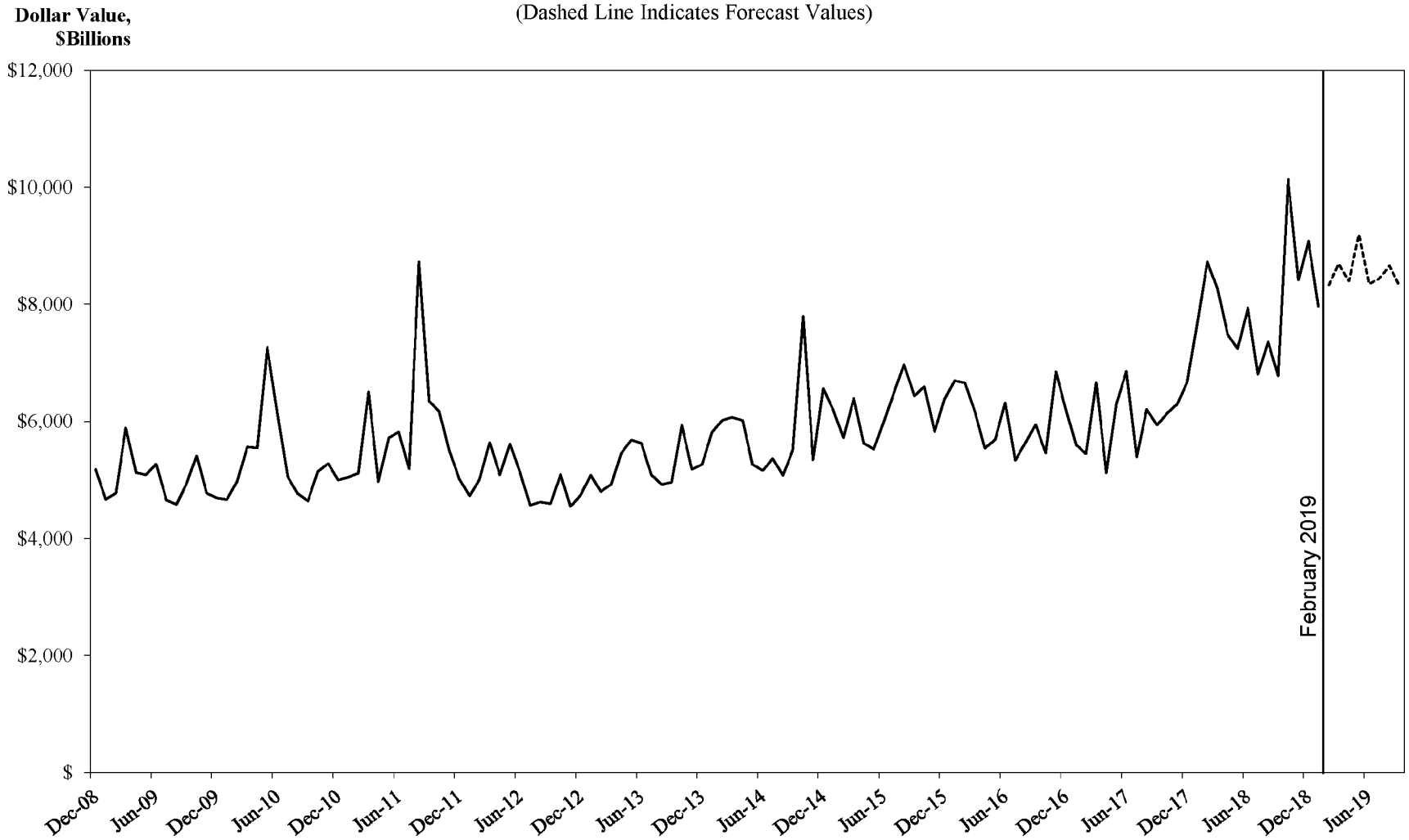
BILLING CODE 8011–01–P

Figure A.

Aggregate Dollar Amount of Sales Subject to Exchange Act Sections 31(b) and 31(c)[1]

Methodology Developed in Consultation With OMB and CBO

(Dashed Line Indicates Forecast Values)



[1]Forecasted line is not smooth because the number of trading days varies by month.

[FR Doc. 2019–04800 Filed 3–14–19; 8:45 am]

BILLING CODE 8011–01–C

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #15890 and #15891; Alabama Disaster Number AL–00094]

Presidential Declaration of a Major Disaster for the State of Alabama

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for the State of Alabama (FEMA–4419–DR), dated 03/05/2019.

Incident: Severe Storms, Straight-line Winds, and Tornadoes.

Incident Period: 03/03/2019.

DATES: Issued on 03/05/2019.

Physical Loan Application Deadline Date: 05/06/2019.

Economic Injury (EIDL) Loan Application Deadline Date: 12/05/2019.

ADDRESS: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205–6734.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the President's major disaster declaration on 03/05/2019, applications for disaster loans may be filed at the address listed above or other locally announced locations. The following areas have been determined to be adversely affected by the disaster:

Primary Counties (Physical Damage and Economic Injury Loans): Lee

Contiguous Counties (Economic Injury Loans Only):

Alabama: Chambers, Macon, Russell, Tallapoosa.

Georgia: Harris, Muscogee.

The Interest Rates are:

	Percent
For Physical Damage:	
Homeowners with Credit Available Elsewhere	4.125
Homeowners without Credit Available Elsewhere	2.063
Businesses with Credit Available Elsewhere	8.000
Businesses without Credit Available Elsewhere	4.000
Non-Profit Organizations with Credit Available Elsewhere	2.750
Non-Profit Organizations without Credit Available Elsewhere	2.750
For Economic Injury:	
Businesses & Small Agricultural Cooperatives without Credit Available Elsewhere	4.000
Non-Profit Organizations without Credit Available Elsewhere	2.750

The number assigned to this disaster for physical damage is 15890C and for economic injury is 158910.

(Catalog of Federal Domestic Assistance Number 59008)

Rafaela Monchek,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. 2019–04939 Filed 3–14–19; 8:45 am]

BILLING CODE 8025–01–P

SOCIAL SECURITY ADMINISTRATION

[Docket No. SSA–2019–0001]

Social Security Ruling 19–1p; Titles II and XVI: Effect of the Decision in Lucia v. Securities and Exchange Commission (SEC) On Cases Pending at the Appeals Council

AGENCY: Social Security Administration.

ACTION: Notice of Social Security Ruling (SSR).

SUMMARY: We are giving notice of SSR 19–1p. This ruling explains how we will adjudicate cases pending at the Appeals Council in which the claimant has raised a timely challenge to the appointment of an administrative law judge (ALJ) under the Appointments Clause of the United States Constitution in light of the Supreme Court's recent 2018 decision in *Lucia* v. *SEC.*

DATES: We will apply this notice on March 15, 2019.

FOR FURTHER INFORMATION CONTACT: Nancy Chung, Office of Appellate Operations, 5107 Leesburg Pike, Falls Church, Virginia, (703) 605–7100. For information on eligibility or filing for benefits, call our national toll-free number 1–800–772–1213, or TTY 1–800–325–0778, or visit our internet site, Social Security online, at *http://www.socialsecurity.gov.*

SUPPLEMENTARY INFORMATION: Although 5 U.S.C. 552(a)(1) and (a)(2) do not require us to publish this SSR, we are doing so under 20 CFR 402.35(b)(1).

Through SSRs, we make available to the public precedential decisions relating to the Federal old-age, survivors, disability, supplemental security income, and special veterans benefits programs. We may base SSRs on determinations or decisions made at all levels of administrative adjudication, Federal court decisions, Commissioner's decisions, opinions of the Office of the General Counsel, or other interpretations of the law and regulations.

Although SSRs do not have the same force and effect as statutes or regulations, they are binding on all components of the Social Security Administration. 20 CFR 402.35(b)(1).

This SSR will remain in effect until we publish a notice in the **Federal Register** that rescinds it, or we publish a new SSR that replaces or modifies it.

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

Nancy Berryhill,

Acting Commissioner of Social Security.

Policy Interpretation Ruling

Social Security Ruling (SSR) 19–1p

Titles II and XVI: Effect of the Decision in Lucia V. Securities and Exchange Commission (SEC) on Cases Pending at the Appeals Council

Purpose: This ruling explains how we will adjudicate cases pending at the Appeals Council in which the claimant has raised a timely challenge to the appointment of an administrative law judge (ALJ) under the Appointments Clause of the United States Constitution in light of the Supreme Court's decision in *Lucia* v. *SEC,* 138 S. Ct. 2044 (2018).

Citations: 20 CFR 404.970, 404.976(b), 416.1470, and 416.1476(b).

Background: In *Lucia,* the Supreme Court considered a challenge to the manner in which the SEC appointed its ALJs. The Supreme Court held that the SEC's ALJs are ''Officers of the United States'' within the meaning of the Appointments Clause of the United States Constitution, Art. II, § 2, cl. 2.[1] As a result, the SEC's ALJs should have been (but were not) appointed to their positions by either the President, a court of law, or the Department head. The Supreme Court reversed the lower court's decision finding that the SEC's ALJs were not inferior officers. Having determined that Lucia had raised a timely challenge to the ALJ's

[1] The Supreme Court explained in *Lucia* that ''[t]he Appointments Clause prescribes the exclusive means of appointing 'Officers.' Only the President, a court of law, or a head of department can do so. *See* Art. II, § 2, cl. 2.'' *Lucia* v. *SEC,* 138 S. Ct. 2044, 2051 (2018).

appointment, the Supreme Court remanded the case for a new hearing before a properly appointed ALJ who had not previously heard the case, or before the SEC itself.[2] The Supreme Court's decision in *Lucia* did not specifically address the constitutional status of ALJs who work in other Federal agencies, including the Social Security Administration (SSA). To address any Appointments Clause questions involving Social Security claims, and consistent with guidance from the Department of Justice, on July 16, 2018 the Acting Commissioner of Social Security ratified the appointments of our ALJs and approved those appointments as her own.[3] On the same day, the Acting Commissioner took the same actions with respect to the administrative appeals judges (AAJs) who work at the Appeals Council.[4] We are issuing this SSR to explain how the Appeals Council will adjudicate appeals in which the claimant timely raises an Appointments Clause challenge to the authority of the ALJ who decided or dismissed a claim.

Policy Interpretation: We receive millions of applications for benefits each year.[5] The essential requirement for any system of administrative review in a program as large and complex as ours is that it ''must be fair—and it must work.'' [6] In adjudicating the millions of claims we receive each year, we strive to balance the two overriding concerns of fairness and efficiency, consistent with the law. The Social Security system must be fair and accurate and provide each claimant with appropriate due process protections. At the same time, the Supreme Court has recognized that we must make decisions efficiently in order to ensure that the system continues to work and serve the American people.[7] Because we employ more ALJs than all other Federal agencies combined, and our ALJs issue hundreds of thousands of decisions each year, *Lucia* has the potential to significantly affect our hearings and appeals process. To properly address the issues *Lucia* raises in the context of our hearings and appeals system, we have determined that some claimants are entitled to additional administrative review of their claims.

A claimant who is dissatisfied with an ALJ's decision, or the dismissal of a request for a hearing, may request that the Appeals Council review the decision or dismissal. Under our regulations, the Appeals Council will review a case if:

(1) There appears to be an abuse of discretion by the ALJ;

(2) there is an error of law;

(3) the ALJ's action, findings or conclusions are not supported by substantial evidence;

(4) there is a broad policy or procedural issue that may affect the general public interest; or

(5) the Appeals Council receives additional evidence that the claimant shows is new, material, and relates to the period on or before the date of the ALJ hearing decision, and there is a reasonable probability that the evidence would change the outcome of the decision.[8]

We interpret some challenges to the ALJ's authority to hear and decide a claim, based on the Supreme Court's decision in *Lucia,* as raising ''a broad policy or procedural issue that may affect the general public interest'' within the meaning of our regulations. Challenges to an ALJ's authority to decide a claim may raise a broadly applicable procedural issue independent of the merits of the individual claim for benefits—that is, whether the ALJ who presided over the claimant's hearing was properly appointed under the Appointments Clause of the Constitution. We will process requests for review that include a timely administrative challenge to the ALJ's authority based on the Appointments Clause in the manner described below.

The Appeals Council will grant the claimant's request for review in cases where the claimant: (1) Timely requests Appeals Council review of an ALJ's decision or dismissal issued before July 16, 2018; and (2) raises before us (either at the Appeals Council level, or previously had raised at the ALJ level) a challenge under the Appointments Clause to the authority of the ALJ who issued the decision or dismissal in the case.

When the Appeals Council grants review based on a timely-raised Appointments Clause challenge, AAJs who have been appointed by the Acting Commissioner (or whose appointments the Acting Commissioner has ratified) will vacate the hearing decision or dismissal.[9] In cases in which the ALJ made a decision, the Appeals Council will conduct a new and independent review of the claims file and either remand the case to an ALJ other than the ALJ who issued the decision under review, or issue its own new decision about the claim covering the period before the date of the ALJ's decision. In its review, the Appeals Council will not presume that the prior hearing decision was correct.[10]

In cases in which the ALJ dismissed a request for a hearing, the Appeals Council will vacate the ALJ's dismissal order.[11] It will then either: (1) Decide whether the request for a hearing should be dismissed, or (2) remand the case to another ALJ to determine that issue.

When the Appeals Council grants a claimant's request for review in cases that raise a timely Appointments Clause challenge, the claimant may request a reasonable opportunity to file briefs or other written statements about the facts and law relevant to the case.[12] Our regulations also allow a claimant to request to appear before the Appeals Council to present oral argument.[13] If the Appeals Council decides that the case raises an important question of law or policy, or that oral argument would help to reach the proper result, the Appeals Council will grant the request to appear. If the Appeals Council grants a request to appear and holds oral argument, it will notify the claimant and his or her representative about the time and place at least 10 days before the

[2] *Lucia* v. *SEC,* 138 S. Ct. at 2055.

[3] See Social Security Emergency Message (EM) 18003 REV 2, § B (available at: *https://secure.ssa.gov/apps10/reference.nsf/links/08062018021025PM*).

[4] *Id.*

[5] In fiscal year 2017, we completed 5.62 million retirement and survivors insurance claims and 2.485 million initial disability claims. We also received 620,000 hearing requests, and completed 686,000 hearings. *FY 2019 Congressional Justification,* at 6 (available at: *https://www.ssa.gov/budget/FY19Files/2019CJ.pdf*).

[6] *Richardson* v. *Perales,* 402 U.S. 389, 399 (1971).

[7] For example, in *Barnhart* v. *Thomas,* 540 U.S. 20, 28–29 (2003), the Supreme Court stated that, ''As we have observed, '[t]he Social Security hearing system is probably the largest adjudicative system in the western world.' . . . The need for efficiency is self-evident.' '' (quoting *Heckler* v. *Campbell,* 461 U.S. 458, 461 n.2 (1983)).

[8] 20 CFR 404.970(a) and (b), 416.1470(a) and (b).

[9] Under our regulations, whenever the Appeals Council reviews a hearing decision under 20 CFR 404.967, 404.969, 416.1467, or 416.1469, and the claimant does not appear personally or through representation before the Appeals Council to present oral argument, the Appeals Council's review will be conducted by a panel of not less than two members of the Appeals Council designated in the manner prescribed by the Chairman or Deputy Chairman of the Council. In the event of disagreement between a panel composed of only two members, the Chairman or Deputy Chairman, or his or her delegate, who must be a member of the Council, shall participate as a third member of the panel. When the claimant appears in person or through representation before the Appeals Council, the review will be conducted by a panel of not less than three members of the Council designated in the manner prescribed by the Chairman or Deputy Chairman. Concurrence of a majority of a panel shall constitute the decision of the Appeals Council unless the case is considered by the Appeals Council *en banc* or as a representative body, as provided in 20 CFR 422.205. *See* 20 CFR 422.205(b).

[10] 20 CFR 404.979, 416.1479.

[11] 20 CFR 404.960(a), 416.1460(a).

[12] 20 CFR 404.975, 416.1475.

[13] 20 CFR 404.976(b), 416.1476(b).

date scheduled for the appearance.[14] The Appeals Council will determine whether the appearance, or the appearance of any other person relevant to the proceeding, will be in person, by video teleconferencing, or by telephone.[15]

When the Appeals Council grants a request for review, it will mail a notice to all parties at their last known address stating the reasons for the review and the issues to be considered.[16] Consistent with our regulations, the Appeals Council will consider all the evidence in the ALJ hearing record, as well as additional evidence subject to the limitations on Appeals Council consideration of additional evidence in 20 CFR 404.970 and 416.1470. The Appeals Council will also consider any arguments the claimant or representative made in writing or at the hearing and will also consider any additional arguments submitted to it.

The Appeals Council will either remand the case to a different ALJ; issue a new, independent decision; or, as appropriate, issue an order dismissing the request for a hearing. When the Appeals Council issues a decision, its decision may result in different findings from the ALJ hearing decision that the Appeals Council vacated.[17] When the Appeals Council grants review and issues its own decision, its decision will be based on the preponderance of the evidence.[18]

[FR Doc. 2019–04817 Filed 3–14–19; 8:45 am]

BILLING CODE 4191–02–P

[14] *Id.*

[15] *Id.*

[16] 20 CFR 404.973, 416.1473

[17] 20 CFR 404.979, 416.1479.

[18] *Id.*

DEPARTMENT OF STATE

[Public Notice: 10684]

30-Day Notice of Proposed Information Collection: Application Under the Hague Convention on the Civil Aspects of International Child Abduction

ACTION: Notice of request for public comment and submission to OMB of proposed collection of information.

SUMMARY: The Department of State has submitted the information collection described below to the Office of Management and Budget (OMB) for approval. In accordance with the Paperwork Reduction Act of 1995 we are requesting comments on this collection from all interested individuals and organizations. The purpose of this Notice is to allow 30 days for public comment.

DATES: Submit comments directly to the Office of Management and Budget (OMB) up to April 15, 2019.

ADDRESSES: Direct comments to the Department of State Desk Officer in the Office of Information and Regulatory Affairs at the Office of Management and Budget (OMB). You may submit comments by the following methods:

- *Email: oira_submission@omb.eop.gov.* You must include the DS form number, information collection title, and the OMB control number in the subject line of your message.
- *Fax:* 202–395–5806. Attention: Desk Officer for Department of State.

FOR FURTHER INFORMATION CONTACT: Direct requests for additional information regarding the collection listed in this notice, including requests for copies of the proposed collection instrument and supporting documents, to Derek A. Rivers, Bureau of Consular Affairs, Overseas Citizens Services (CA/OCS/PMO), U.S. Department of State, 2201 C. St. NW, Washington, DC 20522, who may be reached at *RiversDA@state.gov.*

SUPPLEMENTARY INFORMATION:

- *Title of Information Collection:* Application Under the Hague Convention on the Civil Aspects of International Child Abduction.
- *OMB Control Number:* 1405–0076.
- *Type of Request:* Revision of a Currently Approved Collection.
- *Originating Office:* Bureau of Consular Affairs, Overseas Citizens Services (CA/OCS).
- *Form Number:* DS–3013, 3013s.
- *Respondents:* Person seeking return of or access to child.
- *Estimated Number of Respondents:* 565.
- *Estimated Number of Responses:* 565.
- *Average Time per Response:* 60 minutes.
- *Total Estimated Burden Time:* 565 hours
- *Frequency:* On occasion.
- *Obligation to Respond:* Voluntary.

We are soliciting public comments to permit the Department to:

- Evaluate whether the proposed information collection is necessary for the proper functions of the Department.
- Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Please note that comments submitted in response to this Notice are public record. Before including any detailed personal information, you should be aware that your comments as submitted, including your personal information, will be available for public review.

Abstract of Proposed Collection

The Application Under the Hague Convention on the Civil Aspects of International Child Abduction (DS–3013 and DS 3013–s) is used by parents or legal guardians who are requesting the State Department's assistance in seeking the return of, or access to, a child or children alleged to have been wrongfully removed from or retained outside of the child's habitual residence and currently located in another country that is also party to the Hague Convention on the Civil Aspects of International Child Abduction (the Convention). The application requests information regarding the identities of the applicant, the child or children, and the person alleged to have wrongfully removed or retained the child or children. In addition, the application requires that the applicant provide the circumstances of the alleged wrongful removal or retention and the legal justification for the request for return or access. The State Department, as the U.S. Central Authority for the Convention, uses this information to establish, if possible, the applicants' claims under the Convention; to inform applicants about available remedies under the Convention; and to provide the information necessary to the foreign Central Authority in its efforts to locate the child or children, and to facilitate return of or access to the child or children pursuant to the Convention. 22 U.S.C. 9008 is the legal authority that permits the Department to gather this information.

Methodology

The completed form DS–3013 and DS 3013–s may be submitted to the Office of Children's Issues by mail, by fax, or electronically accessed through *www.travel.state.gov.*

Michelle Bernier-Toth,

Managing Director, Bureau of Consular Affairs, Department of State.

[FR Doc. 2019–04812 Filed 3–14–19; 8:45 am]

BILLING CODE 4710–06–P

DEPARTMENT OF STATE

[Public Notice: 10706]

Designation of Akram 'Abbas al-Kabi, aka Akram Abas al-Ka'bi, aka Sheik Akram al-Ka'abi, aka Shaykh Abu-Akram al-Ka'abi, aka Abu-Muhammad, aka Karumi, aka Abu Ali as a Specially Designated Global Terrorist

Acting under the authority of and in accordance with section 1(b) of Executive Order 13224 of September 23, 2001, as amended by Executive Order 13268 of July 2, 2002, and Executive Order 13284 of January 23, 2003, I hereby determine that the person known as Akram 'Abbas al-Kabi, aka Akram Abas al-Ka'bi, aka Sheik Akram al-Ka'abi, aka Shaykh Abu-Akram al-Ka'abi, aka Abu-Muhammad, aka Karumi, aka Abu Ali, committed, or poses a significant risk of committing, acts of terrorism that threaten the security of U.S. nationals or the national security, foreign policy, or economy of the United States.

Consistent with the determination in section 10 of Executive Order 13224 that prior notice to persons determined to be subject to the Order who might have a constitutional presence in the United States would render ineffectual the blocking and other measures authorized in the Order because of the ability to transfer funds instantaneously, I determine that no prior notice needs to be provided to any person subject to this determination who might have a constitutional presence in the United States, because to do so would render ineffectual the measures authorized in the Order.

This notice shall be published in the **Federal Register**.

Dated: February 28, 2019.

Michael R. Pompeo,

Secretary of State, Department of State.

[FR Doc. 2019–04509 Filed 3–14–19; 8:45 am]

BILLING CODE 4710–AD–P

DEPARTMENT OF STATE

[Public Notice: 10703]

Designation of Harakat al-Nujaba, aka Harakat Hezbollah al-Nujaba, aka Movement of the Noble Ones Hezbollah, aka The Movement of the Noble Ones, aka Golan Liberation Brigade, aka Ammar ibn Yasir Brigade, aka Imam al-Hasan al-Mujtaba Brigade, aka al-Hamad Brigade, aka al-Nujaba TV as a Specially Designated Global Terrorist

Acting under the authority of and in accordance with section 1(b) of Executive Order 13224 of September 23, 2001, as amended by Executive Order 13268 of July 2, 2002, and Executive Order 13284 of January 23, 2003, I hereby determine that the person known as Harakat al-Nujaba, aka Harakat Hezbollah al-Nujaba, aka Movement of the Noble Ones Hezbollah, aka The Movement of the Noble Ones, aka Golan Liberation Brigade, aka Ammar ibn Yasir Brigade, aka Imam al-Hasan al-Mujtaba Brigade, aka al-Hamad Brigade, aka al-Nujaba TV, committed, or poses a significant risk of committing, acts of terrorism that threaten the security of U.S. nationals or the national security, foreign policy, or economy of the United States.

Consistent with the determination in section 10 of Executive Order 13224 that prior notice to persons determined to be subject to the Order who might have a constitutional presence in the United States would render ineffectual the blocking and other measures authorized in the Order because of the ability to transfer funds instantaneously, I determine that no prior notice needs to be provided to any person subject to this determination who might have a constitutional presence in the United States, because to do so would render ineffectual the measures authorized in the Order.

This notice shall be published in the **Federal Register**.

Dated: February 28, 2019.

Michael R. Pompeo,

Secretary of State, Department of State.

[FR Doc. 2019–04508 Filed 3–14–19; 8:45 am]

BILLING CODE 4710–AD–P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36230]

Union Pacific Railroad Company—Temporary Trackage Rights Exemption—BNSF Railway Company

Union Pacific Railroad Company (UP) has filed a verified notice of exemption under 49 CFR 1180.2(d)(8) for acquisition of temporary overhead trackage rights over a rail line of BNSF Railway Company (BNSF) between milepost 579.3 near Mill Creek, Okla., on BNSF's Creek Subdivision and milepost 631.0 near Joe Junction, Tex., on BNSF's Madill Subdivision, a total distance of approximately 51.7 miles.

UP states that, pursuant to a written trackage rights agreement, BNSF has agreed to grant the specified temporary overhead trackage rights to UP.[1] According to UP, the temporary trackage rights are for the sole purpose of moving loaded and empty unit ballast trains to be used for UP maintenance-of-way projects. The temporary trackage rights will expire on December 31, 2019.

The transaction may be consummated on or after March 29, 2019, the effective date of the exemption (30 days after the verified notice of exemption was filed).

As a condition to this exemption, any employees affected by the acquisition of the trackage rights will be protected by the conditions imposed in *Norfolk & Western Railway—Trackage Rights—Burlington Northern, Inc.,* 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Railway—Lease & Operate—California Western Railroad,* 360 I.C.C. 653 (1980), and any employees affected by the discontinuance of those trackage rights will be protected by the conditions set out in *Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho,* 360 I.C.C. 91 (1979).

If the verified notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions to stay must be filed by March 22, 2019 (at least seven days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to Docket No. FD 36230, must be filed with the Surface Transportation Board, 395 E Street SW, Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Jeremy Berman, 1400 Douglas Street, Union Pacific Railroad Company, STOP 1580, Omaha, NE 68179.

Board decisions and notices are available at *www.stb.gov*.

Decided.

By the Board, Allison C. Davis, Acting Director, Office of Proceedings.

Kenyatta Clay,

Clearance Clerk.

[FR Doc. 2019–04819 Filed 3–14–19; 8:45 am]

BILLING CODE 4915–01–P

[1] A copy of the agreement, dated December 31, 2018, was filed with the notice.

SURFACE TRANSPORTATION BOARD

[Docket No. EP 290 (Sub-No. 4)]

Railroad Cost Recovery Procedures—Productivity Adjustment

AGENCY: Surface Transportation Board.

ACTION: Presentation of the Board's calculation for the change in railroad

productivity for the 2013–2017 averaging period.

SUMMARY: In a decision served on March 11, 2019, the Board proposed to adopt 1.005 (0.5% per year) as the measure of average (geometric mean) change in railroad productivity for the 2013–2017 (five-year) period. This represents an increase of 0.9% from the average for the 2012–2016 period. The Board's March 11, 2019 decision in this proceeding stated that comments may be filed addressing any perceived data and computational errors in the Board's calculation. The decision also stated that unless a further order is issued postponing the effective date, this decision is effective on March 29, 2019.

DATES: The productivity adjustment is effective March 29, 2019. Comments are due by March 26, 2019.

ADDRESSES: Comments may be submitted either via the Board's e-filing format or in paper format. Any person using e-filing should attach a document and otherwise comply with the instructions at the E-Filing link on the Board's website, at *http://www.stb.gov.* Any person submitting a filing in paper format should send the original and 10 copies to: Surface Transportation Board, Attn: Docket No. EP 290 (Sub-No. 4), 395 E Street SW, Washington, DC 20423–0001.

FOR FURTHER INFORMATION CONTACT: Pedro Ramirez at (202) 245–0333. Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: The Board's decision is posted at *http://www.stb.gov.* Copies of the decision may be purchased by contacting the Board's Office of Public Assistance, Governmental Affairs, and Compliance at (202) 245–0238. Assistance for the hearing impaired is available through FIRS at 1–800–877–8339.

Authority: 49 U.S.C. 10708.

Decided: March 11, 2019.

By the Board, Board Members Begeman, Fuchs, and Oberman.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. 2019–04802 Filed 3–14–19; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Request To Release Airport Property at Yellowstone Regional Airport, Cody, WY

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of request to release airport property.

SUMMARY: The FAA proposes to rule and invite public comment on the release of land at Yellowstone Regional Airport under the provisions of Section 125 of the Wendell H. Ford Aviation Investment Reform Act for the 21st Century (AIR 21).

DATES: Comments must be received on or before April 15, 2019.

ADDRESSES: Comments on this application may be mailed or delivered to the FAA at the following address: Mr. John P. Bauer, Manager, Federal Aviation Administration, Northwest Mountain Region, Airports Division, Denver Airports District Office, 26805 E. 68th Avenue, Suite 224, Denver, CO 80249–6361.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Bob Hooper, Airport Manager, Yellowstone Regional Airport, Cody, WY, at the following address: Mr. Bob Hooper, Airport Manager, Yellowstone Regional Airport, P.O. Box 2748, Cody, WY 82414.

FOR FURTHER INFORMATION CONTACT: Mr. Jesse Lyman, Utah State Engineer, Federal Aviation Administration, Northwest Mountain Region, Denver Airports District Office, 26805 E. 68th Avenue, Suite 224, Denver, CO 80249–6361.

The request to release property may be reviewed, by appointment, in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA invites public comment on the request to release property at Yellowstone Regional Airport under the provisions of the AIR 21 (49 U.S.C. 47107(h)(2)).

On March 5, 2019, the FAA determined that the request to release property at Yellowstone Regional Airport submitted by the Yellowstone Regional Airport meets the procedural requirements of the FAA. The FAA may approve the request, in whole or in part, no later than April 15, 2019.

The following is a brief overview of the request:

The City of Cody, WY, and the Yellowstone Regional Airport are proposing the release from the terms, conditions, reservations, and restrictions on a 2.47 acre parcel of property acquired by the City of Cody on July 2, 1958, from the Bureau of Land Management. The parcel proposed for release is adjacent to a parcel that was previously released and will accommodate a new animal shelter or expansion of the existing shelter. The parcel is located on the southeast corner of the airport and is far removed from any present or foreseeable aviation development. It is no longer needed for aviation purposes. The property will be sold at fair market value and the funds received will be reinvested in the operation and maintenance of the airport.

Any person may inspect, by appointment, the request in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT**.

In addition, any person may, upon appointment and request, inspect the application, notice and other documents germane to the application in person at the Yellowstone Regional Airport.

Issued in Denver, Colorado on March 5, 2019.

John P. Bauer,

Manager, Denver Airports District Office.

[FR Doc. 2019–04788 Filed 3–14–19; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Notice Regarding U.S. Carrier Authority To Serve Samoa

AGENCY: Office of the Secretary (OST), Department of Transportation (DOT).

ACTION: Notice.

SUMMARY: This notice advises U.S. carriers holding blanket open-skies route authority that effective July 9, 2019, Samoa will be removed from the Department of Transportation's list of Open Skies Agreements Currently Being Applied. This notice invites carriers seeking to provide scheduled foreign air transportation to Samoa after that date to file applications for exemption authority.

FOR FURTHER INFORMATION CONTACT: Brett Kruger, Chief, U.S. Carrier Licensing/Special Authorities Division (202) 366–8025, 1200 New Jersey Ave. SE, Washington, DC, 20590.

SUPPLEMENTARY INFORMATION: A number of U.S. carriers hold blanket open-skies route authority by certificate or exemption, to provide scheduled foreign air transportation to all of our foreign aviation partners that have entered into

an open-skies agreement with the United States where that agreement is being applied. In this regard, the Department's Office of International Aviation maintains a list on its website of Open Skies Agreements Currently Being Applied between the United States and its open-skies partners, and updates the list as partners are added or removed.[1] The Department has stated that it will issue a Notice if an open-skies partner is removed from the list, and allow U.S. carriers holding blanket open-skies certificate authority 120 days to seek exemption authority to serve that foreign aviation partner, as the certificate authority to serve that foreign partner will no longer be effective 120 days after the publication date of the Notice.[2] The Department has further stated that it will also publish a notice in the **Federal Register**.

On March 9, 2019, Samoa withdrew as a party to the Multilateral Agreement on the Liberalization of International Air Transportation (MALIAT), thereby ending its open-skies relationship with the United States as a multilateral partner.[3] On March 11, 2019, the Department issued a Notice stating that it will remove Samoa from its list of Open Skies Agreements Currently Being Applied, effective July 9, 2019. The Department served its March 11 Notice on all certificated U.S. air carriers operating large aircraft; the U.S. Department of State (Office of Aviation Negotiations); and the Federal Aviation Administration.

The Department accordingly invites U.S. carriers to file applications for exemption authority under 49 U.S.C. 40109, to provide scheduled foreign air transportation to Samoa on the basis of comity and reciprocity.[4]

Signed in Washington, DC, on March 11, 2019.

Brian J. Hedberg,

Director, Office of International Aviation.

[FR Doc. 2019–04865 Filed 3–14–19; 8:45 am]

BILLING CODE 4910–9X–P

[1] See *http://www.transportation.gov/policy/aviation-policy/open-skies-agreements-being-applied.*

[2] *See e.g.,* Orders 2007–4–2, 2007–7–3, and 2007–7–4.

[3] The United States was informed through diplomatic channels that the Government of New Zealand, as depositary for the MALIAT, received the Government of Samoa's Notification of Withdrawal on March 9, 2018. Under Article 18 of the MALIAT, Samoa's withdrawal became effective March 9, 2019.

[4] U.S. carriers holding open-skies route authority by exemption that wish to serve Samoa should similarly file applications for specific exemption authority.

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0859]

Agency Information Collection Activity Under OMB Review: Request for Restoration of Educational Assistance

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995, this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before April 15, 2019.

ADDRESSES: Submit written comments on the collection of information through *www.Regulations.gov*, or to Office of Information and Regulatory Affairs, Office of Management and Budget, Attn: VA Desk Officer 725 17th St. NW, Washington, DC 20503 or sent through electronic mail to *oira_submission@omb.eop.gov.* Please refer to ''OMB Control No. 2900–0859'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Danny S. Green at (202) 421–1354. Please refer to ''Control No. 2900–0859'' in any correspondence.

SUPPLEMENTARY INFORMATION:

Authority: 38 U.S.C. 3699.

Title: Request for Restoration of Educational Assistance (VA Form 22–0989).

OMB Control Number: 2900–0859.

Type of Review: Extension of a previously approved collection.

Abstract: VA Form 22–0989 will allow students to apply for restoration of entitlement for VA education benefits used at a school that closed or had its approval to receive VA benefits withdrawn. Education Service requests approval of this information collection in order to carry out the implementation of the law which requires VA to immediately accept applications to restore education benefits for school closures and disapprovals beginning after January 1, 2015.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published at 83 FR 25614 on November, 26, 2018, page 60558.

Affected Public: Individuals.

Estimated Annual Burden: 3,511 hours.

Estimated Average Burden per Respondent: 15 minutes.

Frequency of Response: Once.

Estimated Number of Respondents: 14,045.

By direction of the Secretary.

Danny S. Green,

Interim VA Clearance Officer, Office of Quality, Performance and Risk, Department of Veterans Affairs,

[FR Doc. 2019–04827 Filed 3–14–19; 8:45 am]

BILLING CODE 8320–01–P

FEDERAL REGISTER

Vol. 84 Friday,

No. 51 March 15, 2019

Part II

Environmental Protection Agency

40 CFR Part 63

National Emission Standards for Hazardous Air Pollutants: Surface Coating of Large Appliances; Printing, Coating, and Dyeing of Fabrics and Other Textiles; and Surface Coating of Metal Furniture Residual Risk and Technology Reviews; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[EPA–HQ–OAR–2017–0668, EPA–HQ–OAR–2017–0669, EPA–HQ–OAR–2017–0670; FRL–9988–80–OAR]

RIN 2060–AT72

National Emission Standards for Hazardous Air Pollutants: Surface Coating of Large Appliances; Printing, Coating, and Dyeing of Fabrics and Other Textiles; and Surface Coating of Metal Furniture Residual Risk and Technology Reviews

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action on the residual risk and technology reviews (RTRs) conducted for the Surface Coating of Large Appliances; the Printing, Coating, and Dyeing of Fabrics and Other Textiles; and the Surface Coating of Metal Furniture source categories regulated under national emission standards for hazardous air pollutants (NESHAP). In addition, we are taking final action addressing emissions during periods of startup, shutdown, and malfunction (SSM); electronic reporting for performance test results and compliance reports; the addition of EPA Method 18 and updates to several measurement methods; and the addition of requirements for periodic performance testing. Additionally, several miscellaneous technical amendments will be made to improve the clarity of the rule requirements. We are making no revisions to the numerical emission limits based on these risk analyses or technology reviews.

DATES: This final rule is effective on March 15, 2019. The incorporation by reference of certain publications listed in this rule is approved by the Director of the Federal Register as of March 15, 2019.

ADDRESSES: The EPA has established dockets for this action under Docket ID Nos. EPA–HQ–OAR–2017–0668 for 40 Code of Federal Regulations (CFR) part 63, subpart OOOO, Printing, Coating, and Dyeing of Fabrics and Other Textiles; EPA–HQ–OAR–2017–0669 for 40 CFR part 63, subpart RRRR, Surface Coating of Metal Furniture; or EPA–HQ–OAR–2017–0670, for 40 CFR part 63, subpart NNNN, Surface Coating of Large Appliances, as applicable. All documents in the docket are listed on the *https://www.regulations.gov* website. Although listed in the index, some information is not publicly available, *e.g.,* confidential business information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *https://www.regulations.gov,* or in hard copy at the EPA Docket Center, EPA WJC West Building, Room Number 3334, 1301 Constitution Ave. NW, Washington, DC. The Public Reading Room hours of operation are 8:30 a.m. to 4:30 p.m. Eastern Standard Time (EST), Monday through Friday. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the Docket Center is (202) 566–1742.

FOR FURTHER INFORMATION CONTACT: For questions about the final rule for the Surface Coating of Large Appliances source category, contact Ms. Kim Teal, Minerals and Manufacturing Group, Sector Policies and Programs Division (Mail Code D243–04), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, 109 T.W. Alexander Dr., Research Triangle Park, North Carolina 27711; telephone number: (919) 541–5580; fax number: (919) 541–4991; and email address: *teal.kim@epa.gov.*

For questions about the final rule for the Printing, Coating, and Dyeing of Fabrics and Other Textiles source category, contact Ms. Paula Hirtz, Minerals and Manufacturing Group, Sector Policies and Programs Division (Mail Code D243–04), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, 109 T.W. Alexander Dr., Research Triangle Park, North Carolina 27711; telephone number: (919) 541–2618; fax number: (919) 541–4991; and email address: *hirtz.paula@epa.gov.*

For questions about the final rule for the Surface Coating of Metal Furniture source category, contact Ms. J. Kaye Whitfield, Minerals and Manufacturing Group, Sector Policies and Programs Division (Mail Code D243–04), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, 109 T.W. Alexander Dr., Research Triangle Park, North Carolina 27711; telephone number: (919) 541–2509; fax number: (919) 541–4991; and email address: *whitfield.kaye@epa.gov.*

For specific information regarding the risk modeling methodology, contact Mr. Chris Sarsony, Health and Environmental Impacts Division (C539–02), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541–4843; fax number: (919) 541–0840; and email address: *sarsony.chris@epa.gov.*

For information about the applicability of the NESHAP to a particular entity, contact Mr. John Cox, Office of Enforcement and Compliance Assurance, U.S. Environmental Protection Agency, EPA WJC South Building (Mail Code 2221A), 1200 Pennsylvania Avenue NW, Washington, DC 20460; telephone number: (202) 564–1395; and email address: *cox.john@epa.gov.*

SUPPLEMENTARY INFORMATION:

Preamble acronyms and abbreviations. We use multiple acronyms and terms in this preamble. While this list may not be exhaustive, to ease the reading of this preamble and for reference purposes, the EPA defines the following terms and acronyms here:

ASTM—ASTM International
CAA—Clean Air Act
CDX—Central Data Exchange
CEDRI—Compliance and Emissions Data Reporting Interface
CFR—Code of Federal Regulations
CRA—Congressional Review Act
EPA—Environmental Protection Agency
ERT—Electronic Reporting Tool
FR—Federal Register
gal—gallon
HAP—hazardous air pollutant(s)
HCl—hydrochloric acid
HF—hydrogen fluoride
HI—hazard index
HQ—hazard quotient
HQREL—hazard quotient recommended exposure limit
HVLP—high-volume, low-pressure
IBR—incorporation by reference
ICR—Information Collection Request
kg—kilogram
km—kilometer
lb—pound
MACT—maximum achievable control technology
MIR—maximum individual risk
NAICS—North American Industry Classification System
NESHAP—national emission standards for hazardous air pollutants
NTTAA—National Technology Transfer and Advancement Act
OAQPS—Office of Air Quality Planning and Standards
OMB—Office of Management and Budget
OSHA—Occupational Safety and Health Administration
PB–HAP—hazardous air pollutants known to be persistent and bioaccumulative in the environment
ppmv—parts per million by volume
PRA—Paperwork Reduction Act
RFA—Regulatory Flexibility Act
RTR—residual risk and technology review
SSM—startup, shutdown, and malfunction
TOSHI—target organ-specific hazard index

tpy—tons per year
UMRA—Unfunded Mandates Reform Act
VOC—volatile organic compound

Background information. On September 12, 2018, the EPA proposed revisions to the Surface Coating of Large Appliances; the Printing, Coating, and Dyeing of Fabrics and Other Textiles (Fabrics); and the Surface Coating of Metal Furniture NESHAP, based on our RTR. In this action, we are finalizing decisions and revisions for the rules. We summarize some of the more significant comments we timely received regarding the proposed rule and provide our responses in this preamble. A summary of all other public comments on the proposed rules and the EPA's responses to those comments are available in ''Summary of Public Comments and Responses for the Risk and Technology Reviews for the Surface Coating of Large Appliances; the Printing, Coating, and Dyeing of Fabrics and Other Textiles; and the Surface Coating of Metal Furniture,'' in Docket ID Nos. EPA–HQ–OAR–2017–0668, EPA–HQ–OAR–2017–0669, and EPA–HQ–OAR–2017–0670. A ''track changes'' version of the regulatory language that incorporates the changes in this action is available in the docket for each subpart.

Organization of this document. The information in this preamble is organized as follows:

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L. Congressional Review Act (CRA)

I. General Information

A. Does this action apply to me?

Regulated entities. Categories and entities potentially regulated by this action are shown in Table 1 of this preamble.

TABLE 1—NESHAP AND INDUSTRIAL SOURCE CATEGORIES AFFECTED BY THIS FINAL ACTION

NESHAP Source category	NAICS [1] code	Regulated entities [2]
Surface Coating of Large Appliances	335221	Household laundry equipment.
	335222	Household cooking equipment.
	335224	Household refrigerators and freezers.
	335228	Other major household appliances.
	333312	Commercial laundry, dry cleaning, and pressing equipment.
	333415	Air-conditioners (except motor vehicle), comfort furnaces, and industrial refrigeration units and freezers (except heat transfer coils and large commercial and industrial chillers).
	[3] 333319	Other commercial/service industry machinery, e.g., commercial dishwashers, ovens, and ranges, etc.
Printing, Coating, and Dyeing of Fabrics and Other Textiles.	31321	Broadwoven fabric mills.
	31322	Narrow fabric mills and Schiffli machine embroidery.
	313241	Weft knit fabric mills.
	313311	Broadwoven fabric finishing mills.
	313312	Textile and fabric finishing (except broadwoven fabric) mills.
	313320	Fabric coating mills.
	314110	Carpet and rug mills.
	326220	Rubber and plastics hoses and belting and manufacturing.
	339991	Gasket, packing, and sealing device manufacturing.
Surface Coating of Metal Furniture	337124	Metal Household Furniture Manufacturing.
	337214	Nonwood Office Furniture Manufacturing.
	337127	Institutional Furniture Manufacturing.
	337215	Showcase, Partition, Shelving, and Locker Manufacturing.
	337127	Institutional Furniture Manufacturing.
	332951	Hardware Manufacturing.
	332116	Metal Stamping.

TABLE 1—NESHAP AND INDUSTRIAL SOURCE CATEGORIES AFFECTED BY THIS FINAL ACTION—Continued

NESHAP Source category	NAICS [1] code	Regulated entities [2]
	332612	Wire Spring Manufacturing.
	337215	Showcase, Partition, Shelving, and Locker Manufacturing.
	335121	Residential Electric Lighting Fixture Manufacturing.
	335122	Commercial, Industrial, and Institutional Electric Lighting Fixture Manufacturing.
	339111	Laboratory Furniture Manufacturing.
	339114	Dental Equipment Manufacturing.
	337127	Institutional Furniture Manufacturing.
	81142	Reupholstery and Furniture Repair.
	922140	State correctional institutions that apply coatings to metal furniture.

[1] North American Industry Classification System.
[2] Regulated entities means major source facilities that apply surface coatings to these parts or products.
[3] Excluding special industry machinery, industrial and commercial machinery and equipment, and electrical machinery equipment and supplies not elsewhere classified.

Table 1 of this preamble is not intended to be exhaustive, but rather to provide a guide for readers regarding entities likely to be affected by the final action for the source categories listed. To determine whether your facility is affected, you should examine the applicability criteria in the appropriate NESHAP. If you have any questions regarding the applicability of any aspect of this NESHAP, please contact the appropriate person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section of this preamble.

B. Where can I get a copy of this document and other related information?

In addition to being available in the docket, an electronic copy of this final action will also be available on the internet. Following signature by the EPA Administrator, the EPA will post a copy of this final action at: *https://www.epa.gov/stationary-sources-air-pollution/printing-coating-and-dyeing-fabrics-and-other-textiles-national#rule-summary, https://www.epa.gov/stationary-sources-air-pollution/surface-coating-large-appliances-national-emission-standards, and https://www.epa.gov/stationary-sources-air-pollution/surface-coating-metal-furniture-national-emission-standards.* Following publication in the **Federal Register**, the EPA will post the **Federal Register** version and key technical documents at this same website.

Additional information is available on the RTR website at *https://www3.epa.gov/ttn/atw/rrisk/rtrpg.html.* This information includes an overview of the RTR program, links to project websites for the RTR source categories, and detailed emissions and other data we used as inputs to the risk assessments.

C. Judicial Review and Administrative Reconsideration

Under Clean Air Act (CAA) section 307(b)(1), judicial review of this final action is available only by filing a petition for review in the United States Court of Appeals for the District of Columbia Circuit (the Court) by May 14, 2019. Under CAA section 307(b)(2), the requirements established by these final rules may not be challenged separately in any civil or criminal proceedings brought by the EPA to enforce the requirements.

Section 307(d)(7)(B) of the CAA further provides that only an objection to a rule or procedure which was raised with reasonable specificity during the period for public comment (including any public hearing) may be raised during judicial review. This section also provides a mechanism for the EPA to reconsider the rule if the person raising an objection can demonstrate to the Administrator that it was impracticable to raise such objection within the period for public comment or if the grounds for such objection arose after the period for public comment (but within the time specified for judicial review) and if such objection is of central relevance to the outcome of the rule. Any person seeking to make such a demonstration should submit a Petition for Reconsideration to the Office of the Administrator, U.S. EPA, Room 3000, EPA WJC South Building, 1200 Pennsylvania Ave. NW, Washington, DC 20460, with a copy to both the person(s) listed in the preceding **FOR FURTHER INFORMATION CONTACT** section, and the Associate General Counsel for the Air and Radiation Law Office, Office of General Counsel (Mail Code 2344A), U.S. EPA, 1200 Pennsylvania Ave. NW, Washington, DC 20460.

II. Background

A. What is the statutory authority for this action?

Section 112 of the CAA establishes a two-stage regulatory process to address emissions of hazardous air pollutants (HAP) from stationary sources. In the first stage, we must identify categories of sources emitting one or more of the HAP listed in CAA section 112(b) and then promulgate technology-based NESHAP for those sources. ''Major sources'' are those that emit, or have the potential to emit, any single HAP at a rate of 10 tons per year (tpy) or more, or 25 tpy or more of any combination of HAP. For major sources, these standards are commonly referred to as maximum achievable control technology (MACT) standards and must reflect the maximum degree of emission reductions of HAP achievable (after considering cost, energy requirements, and non-air quality health and environmental impacts). In developing MACT standards, CAA section 112(d)(2) directs the EPA to consider the application of measures, processes, methods, systems, or techniques, including but not limited to those that reduce the volume of or eliminate HAP emissions through process changes, substitution of materials, or other modifications; enclose systems or processes to eliminate emissions; collect, capture, or treat HAP when released from a process, stack, storage, or fugitive emissions point; are design, equipment, work practice, or operational standards; or any combination of the above.

For these MACT standards, the statute specifies certain minimum stringency requirements, which are referred to as MACT floor requirements, and which may not be based on cost considerations. *See* CAA section 112(d)(3). For new sources, the MACT floor cannot be less stringent than the emission control achieved in practice by the best-controlled similar source. The

MACT standards for existing sources can be less stringent than floors for new sources, but they cannot be less stringent than the average emission limitation achieved by the best-performing 12 percent of existing sources in the category or subcategory (or the best-performing five sources for categories or subcategories with fewer than 30 sources). In developing MACT standards, we must also consider control options that are more stringent than the floor under CAA section 112(d)(2). We may establish standards more stringent than the floor, based on the consideration of the cost of achieving the emissions reductions, any non-air quality health and environmental impacts, and energy requirements.

In the second stage of the regulatory process, the CAA requires the EPA to undertake two different analyses, which we refer to as the technology review and the residual risk review. Under the technology review, we must review the technology-based standards and revise them ''as necessary (taking into account developments in practices, processes, and control technologies)'' no less frequently than every 8 years, pursuant to CAA section 112(d)(6). Under the residual risk review, we must evaluate the risk to public health remaining after application of the technology-based standards and revise the standards, if necessary, to provide an ample margin of safety to protect public health or to prevent, taking into consideration costs, energy, safety, and other relevant factors, an adverse environmental effect. The residual risk review is required within 8 years after promulgation of the technology-based standards, pursuant to CAA section 112(f). In conducting the residual risk review, if the EPA determines that the current standards provide an ample margin of safety to protect public health, it is not necessary to revise the MACT standards pursuant to CAA section 112(f).[1] For more information on the statutory authority for these final rules, *see* 83 **Federal Register** (FR) 46262, September 12, 2018.

[1] The Court has affirmed this approach of implementing CAA section 112(f)(2)(A): *NRDC* v. *EPA,* 529 F.3d 1077, 1083 (D.C. Cir. 2008) (''If EPA determines that the existing technology-based standards provide an 'ample margin of safety,' then the Agency is free to readopt those standards during the residual risk rulemaking.'').

B. What are the source categories and how does the NESHAP regulate its HAP emissions?

1. What is the Surface Coating of Large Appliances source category and how does the current NESHAP regulate its HAP emissions?

The EPA promulgated the Surface Coating of Large Appliances source category NESHAP on July 23, 2002 (67 FR 48254). The standards are codified at 40 CFR part 63, subpart NNNN. The Surface Coating of Large Appliances industry consists of facilities that are engaged in the surface coating of a large appliance part or product. The source category covered by this MACT standard currently includes ten facilities.

The Surface Coating of Large Appliances NESHAP (40 CFR 63.4081) defines a ''large appliance part or product'' as ''a component of a large appliance product manufactured for household, recreational, institutional, commercial, or industrial use,'' and defines a coating as a ''material that is applied to a substrate for decorative, protective or functional purposes.'' This source category is further described in the September 12, 2018, RTR proposal. *See* 83 FR 46262, 46266–67.

The primary HAP emitted from this source category are organic HAP and include xylene, glycol ethers, toluene, methanol, ethyl benzene, methylene chloride, and methyl isobutyl ether with approximately 80 percent of the HAP emissions coming from coating operations and from the mixing and storage areas. The EPA estimates that HAP emissions are currently about 120 tpy. Most large appliance coating is currently applied either by using a spray gun in a spray booth, by dipping the substrate in a tank of coating, or by powder coating.

The Surface Coating of Large Appliances NESHAP specifies numerical emission limits for organic HAP emissions from surface coating application operations. The organic HAP emission limit for existing sources is 0.13 kilogram (kg) organic HAP/liter (1.1 pound/gallon (lb/gal)) of coating solids and for new or reconstructed sources is 0.022 kg organic HAP/liter (0.18 lb/gal) of coating solids.

The Surface Coating of Large Appliances NESHAP provides three compliance options for existing sources: (1) Compliant coatings, *i.e.,* all coatings have less than or equal to 0.13 kg organic HAP/liter (1.1 lb/gal) of coating solids; (2) emission rate without add-on controls; or (3) emission rate with add-on controls. Facilities using the compliant material option or the emission rate without add-on controls option are not required to meet any work practice standards, but facilities that use add-on controls to demonstrate compliance must develop and implement a work practice plan and comply with site-specific operating limits for the emission capture and control system.

2. What is the Printing, Coating, and Dyeing of Fabrics and Other Textiles source category and how does the current NESHAP regulate its HAP emissions?

The EPA promulgated the Printing, Coating, and Dyeing of Fabrics and Other Textiles NESHAP on May 29, 2003 (68 FR 32172). The standards are codified at 40 CFR part 63, subpart OOOO. The Printing, Coating, and Dyeing of Fabrics and Other Textiles industry consists of facilities that are engaged in the printing, coating, slashing, dyeing, or finishing of fabrics and other textiles. The source category covered by this MACT standard currently includes 43 facilities.

The Printing, Coating, and Dyeing of Fabrics and Other Textiles NESHAP (40 CFR 63.4371) defines a fabric as any woven, knitted, plaited, braided, felted, or non-woven material made of filaments, fibers, or yarns, including thread, and further defines textile as any one of the following: (1) Staple fibers and filaments suitable for conversion to or use as yarns, or for the preparation of woven, knit, or nonwoven fabrics; (2) yarns made from natural or manufactured fibers; (3) fabrics and other manufactured products made from staple fibers and filaments and from yarn; and (4) garments and other articles fabricated from fibers, yarns, or fabrics. The NESHAP also defines a coating material as an elastomer, polymer, or prepolymer material applied as a thin layer to a textile web. This source category is further described in the September 12, 2018, RTR proposal. *See* 83 FR 46264.

The primary HAP emitted from printing, coating, and dyeing operations are organic HAP and include toluene, phenol, methanol, and N,N-dimethylformamide. The majority of organic HAP emissions (greater than 95 percent) come from the coating and printing subcategories, with the remainder coming from dyeing and finishing. The EPA estimates that HAP emissions are currently about 737 tpy.

The Printing, Coating, and Dyeing of Fabrics and Other Textiles NESHAP specifies numerical emission limits for organic HAP emissions from three subcategories: Printing and coating; dyeing and finishing; and slashing. The

organic HAP emissions limit for existing affected sources is 0.12 kg organic HAP/kg (lb/lb) of coating solids applied, and for new or reconstructed affected sources the emissions limit is 0.08 kg organic HAP/kg (lb/lb) of coating solids applied. Printing or coating-affected sources also may demonstrate compliance by achieving at least a 98-percent HAP reduction for new affected sources or a 97-percent HAP reduction for existing sources. Alternatively, new and existing sources using a thermal oxidizer may demonstrate compliance by achieving a HAP concentration at the oxidizer outlet of no greater than 20 parts per million by volume (ppmv) on a dry basis and having an emission capture system with 100-percent efficiency.

For new, reconstructed, or existing dyeing and finishing operations, the emissions limit for conducting dyeing operations is 0.016 kg organic HAP/kg (lb/lb) dyeing materials applied; the emissions limit for conducting finishing operations is 0.0003 kg organic HAP/kg (lb/lb) finishing materials applied; and the emissions limit for conducting both dyeing and finishing operations is 0.016 kg organic HAP/kg (lb/lb) dyeing and finishing materials applied.

For new, reconstructed, or existing slashing operations, the slashing materials must contain no organic HAP (each organic HAP that is not an Occupational Safety and Health Administration (OSHA)-defined carcinogen that is measured to be present at less than 1 percent by weight is counted as zero).

Facilities using the compliant material option or the emission rate without add-on controls option are not required to meet any work practice standards, but facilities that use add-on controls to demonstrate compliance must develop and implement a work practice plan and comply with site-specific operating limits for the emission capture and control system.

3. What is the Surface Coating of Metal Furniture source category and how does the current NESHAP regulate its HAP emissions?

The EPA promulgated the Surface Coating of Metal Furniture NESHAP on May 23, 2003 (68 FR 28606). The standards are codified at 40 CFR part 63, subpart RRRR. The Surface Coating of Metal Furniture industry consists of facilities that engage, either in part or in whole, in the surface coating of metal furniture. The Surface Coating of Metal Furniture NESHAP (40 CFR 63.4881) defines metal furniture as furniture or components of furniture constructed either entirely or partially from metal. The source category covered by this MACT standard currently includes 16 facilities. This source category is further described in the September 12, 2018, RTR proposal. *See* 83 FR 46264.

Most of the organic HAP emissions from metal furniture surface coating operations occur from coating application operations and drying and curing ovens. Xylene, glycol ethers, ethylbenzene, toluene, and cumene account for more than 95 percent of the HAP emitted from the source category. The EPA estimates that HAP emissions are currently about 145 tpy.

The Surface Coating of Metal Furniture NESHAP provides existing sources three compliance options: (1) Use only compliant coatings, *i.e.,* all coatings have less than or equal to 0.10 kg organic HAP/liter (0.83 lb/gal) of coating solids used; (2) collectively manage the coatings such that the monthly emission rate of organic HAP is less than or equal to 0.10 kg organic HAP/liter (0.83 lb/gal) coating solids used; or (3) use emission capture systems and control devices to achieve an organic HAP emissions rate of less than or equal to 0.10 kg organic HAP/liter (0.83 lb/gal) coating solids used.

Facilities using the compliant material option or the emission rate without add-on controls option are not required to meet any work practice standards, but facilities that use add-on controls to demonstrate compliance must develop and implement a work practice plan and comply with site-specific operating limits for the emission capture and control system.

C. What changes did we propose for the source categories in our September 12, 2018, RTR proposal?

On September 12, 2018, the EPA published a proposed rule in the **Federal Register** for the Surface Coating of Large Appliances NESHAP; the Printing, Coating, and Dyeing of Fabrics and Other Textiles NESHAP; and the Surface Coating of Metal Furniture NESHAP, 40 CFR part 63, subpart NNNN, 40 CFR part 63, subpart OOOO, and 40 CFR part 63, subpart RRRR, respectively, that took into consideration the RTR analyses.

We proposed to find that the risks from each of the source categories are acceptable, and that additional emission controls for each source category are not necessary to provide an ample margin of safety.

We also proposed the following amendments:

- Pursuant to the technology reviews for the Surface Coating of Large Appliances source category and the Surface Coating of Metal Furniture source category, a requirement that, for each coating operation for which coatings are spray applied, high-efficiency spray equipment must be used if the source is not using the emission rate with add-on control compliance option;
- For each source category, a requirement for electronic submittal of notifications, semi-annual reports, and compliance reports (which include performance test reports);
- For each source category, revisions to the SSM provisions of each NESHAP in order to ensure that they are consistent with the Court decision in *Sierra Club* v. *EPA,* 551 F. 3d 1019 (D.C. Cir. 2008), which vacated two provisions that exempted source owners and operators from the requirement to comply with otherwise applicable CAA section 112(d) emission standards during periods of SSM;
- For each source category, adding the option of conducting EPA Method 18 of appendix A to 40 CFR part 60, ''Measurement of Gaseous Organic Compound Emissions by Gas Chromatography,'' to measure and then subtract methane emissions from measured total gaseous organic mass emissions as carbon;
- For each source category, removing references to paragraph (d)(4) of OSHA's Hazard Communication standard (29 CFR 1910.1200), which dealt with OSHA-defined carcinogens, and replacing that reference with a list of HAP that must be regarded as potentially carcinogenic based on EPA guidelines;
- For each source category, IBR of alternative test methods and references to updated alternative test methods; and
- Several minor editorial and technical changes in each subpart.

In the same notice, we requested comment on the following, although we did not propose actual rule amendments:

- Whether the EPA should change the reporting frequency for all reports submitted to the EPA from semi-annual to annual, for all three source categories;
- Whether, for all three source categories, additional performance testing should be required, with a specific request for comment on a requirement to conduct performance testing any time a source plans to undertake an operational change that may adversely affect compliance with an applicable standard, operating limit, or parametric monitoring value;
- Whether the Agency should ban the use of ethylene oxide in the Printing, Coating, and Dyeing of Fabrics and Other Textiles source category under the technology review;

• Whether the Agency should establish a work practice for sources in the Printing, Coating, and Dyeing of Fabrics and Other Textiles source category for periods of malfunction when an immediate line shutdown may not be feasible due to safety concerns, and concerns that an immediate shutdown would result in the unnecessary generation of hazardous waste; and

• The relationship between CAA sections 112(d)(6), technology review, and CAA section 112(f), residual risk review; specifically, the extent to which findings that underlie a CAA section 112(f) determination should be considered in making any determinations under CAA section 112(d)(6).

III. What is included in these final rules?

This action amends and finalizes the EPA's determinations pursuant to the RTR provisions of CAA section 112 for three rules—the Surface Coating of Large Appliances; the Printing, Coating, and Dyeing of Fabrics and Other Textiles; and the Surface Coating of Metal Furniture. This action also finalizes the following changes for each source category:

• A requirement for periodic performance testing of capture and control devices every 5 years;

• A requirement for electronic submittal of notifications, semi-annual reports, and compliance reports (which include performance test reports);

• Revising the SSM provisions of each NESHAP;

• Adding the option to conduct EPA Method 18 of appendix A to 40 CFR part 60, ''Measurement of Gaseous Organic Compound Emissions by Gas Chromatography,'' to measure and then subtract methane emissions from measured total gaseous organic mass emissions as carbon;

• Removing references to paragraph (d)(4) of OSHA's Hazard Communication standard (29 CFR 1910.1200), which dealt with OSHA-defined carcinogens, and replacing that reference with a list of HAP that must be regarded as potentially carcinogenic based on EPA guidelines;

• IBR of alternative test methods and references to updated alternative test methods and updated appendices; and

• Several minor technical amendments and clarifications of the applicability of the NESHAP and definitions.

A. What are the final rule amendments based on the risk review for the Surface Coating of Large Appliances; Printing, Coating, and Dyeing of Fabrics and Other Textile; and Surface Coating of Metal Furniture source categories?

This section describes the final amendments to the Surface Coating of Large Appliances NESHAP (40 CFR part 63, subpart NNNN); the Printing, Coating, and Dyeing of Fabrics and Other Textiles NESHAP (40 CFR part 63, subpart OOOO); and the Surface Coating of Metal Furniture NESHAP (40 CFR part 63, subpart RRRR) being promulgated pursuant to CAA section 112(f). The EPA proposed no changes to these three subparts based on the risk reviews conducted pursuant to CAA section 112(f). In this action, we are finalizing our proposed determination that risks from these three subparts are acceptable, and that the standards provide an ample margin of safety to protect public health and prevent an adverse environmental effect. The EPA received no new data or other information during the public comment period that causes us to change that proposed determination. Therefore, we are not requiring additional controls under CAA section 112(f)(2) for any of the three subparts in this action.

B. What are the final rule amendments based on the technology review for the source categories?

For 40 CFR part 63, subpart NNNN, 40 CFR part 63, subpart OOOO, and 40 CFR part 63, subpart RRRR, we are not finalizing any revisions to the MACT standards under CAA section 112(d)(6) pursuant to our technology reviews.

C. What are the final rule amendments addressing emissions during periods of SSM?

We are finalizing, as proposed, changes to the Surface Coating of Large Appliances; the Printing, Coating, and Dyeing of Fabrics and Other Textiles; and the Surface Coating of Metal Furniture source categories NESHAP to eliminate the SSM exemption. Consistent with *Sierra Club* v. *EPA* 551 F. 3d 1019 (D.C. Cir. 2008), the EPA is establishing standards in these rules that apply at all times. Table 2 to Subpart NNNN of Part 63, Table 3 to Subpart OOOO of Part 63, and Table 2 to Subpart RRRR of Part 63 (General Provisions applicability table) are being revised to change several references related to requirements that apply during periods of SSM. We eliminated or revised certain recordkeeping and reporting requirements related to the eliminated SSM exemption. The EPA also made changes to the rule to remove or modify inappropriate, unnecessary, or redundant language in the absence of the SSM exemption. We determined that facilities in these source categories can meet the applicable emission standards in the Surface Coating of Large Appliances; the Printing, Coating, and Dyeing of Fabrics and Other Textiles; and the Surface Coating of Metal Furniture NESHAP at all times, including periods of startup and shutdown. Therefore, the EPA determined that no additional standards are needed to address emissions during these periods. The legal rationale and detailed changes for SSM periods that we are finalizing today are set forth in the proposed rule. See 83 FR 46284 through 46288, 46295 through 46298, and 46305 through 46308.

We are finalizing a revision to the performance testing requirements at 40 CFR 63.4164, 40 CFR 63.4360, and 40 CFR 63.4963. The final performance testing provisions prohibit performance testing during startup, shutdown, or malfunction as these conditions are not representative of normal operating procedures. The final rules will also require that operators maintain records to document that operating conditions during the test represent normal operations.

D. What other changes have been made to the NESHAP?

These rules also finalize, as proposed, revisions to several other NESHAP requirements. We describe the revisions that apply to all the affected source categories in the following paragraphs.

To increase the ease and efficiency of data submittal and data accessibility, we are finalizing a requirement that owners and operators of facilities in the Surface Coating of Large Appliances; Printing, Coating, and Dyeing of Fabrics and Other Textiles; and Surface Coating of Metal Furniture source categories submit electronic copies of certain required performance test reports through the EPA's Central Data Exchange (CDX) website using an electronic performance test report tool called the Electronic Reporting Tool (ERT). We also are finalizing, as proposed, provisions that allow facility operators the ability to seek extensions for submitting electronic reports for circumstances beyond the control of the facility, *i.e.,* for a possible outage in the CDX or Compliance and Emissions Data Reporting Interface (CEDRI) or for a force majeure event in the time just prior to a report's due date, as well as the process to assert such a claim.

We are finalizing amendments to 40 CFR 63.4166(b), 40 CFR 63.4362(b), and

40 CFR 63.4965(b) to add the option of conducting EPA Method 18 of appendix A to 40 CFR part 60, ''Measurement of Gaseous Organic Compound Emissions by Gas Chromatography,'' to measure and then subtract methane emissions from measured total gaseous organic mass emissions, as carbon, for those facilities using the emission rate with add-on control compliance option and EPA Method 25A to measure control device destruction efficiency. We also are finalizing the format of references to test methods in 40 CFR part 60, appendix A to indicate where, in the eight sections of appendix A, each method is found.

For each subpart, we are finalizing the proposal to remove the reference to paragraph (d)(4) of OSHA's Hazard Communication standard (29 CFR 1910.1200) and replace with a reference to a new table in each subpart (Table 5 to 40 CFR part 63, subpart NNNN, Table 6 to 40 CFR part 63, subpart OOOO, and Table 5 to 40 CFR part 63, subpart RRRR) that lists the organic HAP that must be included in calculating total organic HAP content of a coating material present at 0.1 percent or greater by mass. We are finalizing the a provision to include organic HAP in these tables if they were categorized in the EPA's ''Prioritized Chronic Dose-Response Values for Screening Risk Assessments'' (dated May 9, 2014) as a ''human carcinogen,'' ''probable human carcinogen,'' or ''possible human carcinogen'' according to ''The Risk Assessment Guidelines of 1986'' (EPA/600/8–87/045, August 1987),[2] or as ''carcinogenic to humans,'' ''likely to be carcinogenic to humans,'' or with ''suggestive evidence of carcinogenic potential'' according to the ''Guidelines for Carcinogen Risk Assessment'' (EPA/630/P–03/001F, March 2005).

We are including in the final rule for each subpart a requirement for facilities to conduct control device performance testing no less frequently than once every 5 years when using the emission rate with add-on controls compliance option. Facilities will be able to conduct these performance tests on the same schedule as their title V operating permit renewals. If the title V permit already requires performance testing, no additional testing will be required.

1. What other changes have been made to the Surface Coating of Large Appliances source category NESHAP?

We are finalizing several miscellaneous technical amendments to improve the clarity of the rule requirements:

- Clarifying that a thermocouple is part of the temperature sensor referred to in 40 CFR 63.4168(c)(3) for purposes of performing periodic calibration and verification checks;
- Renumbering 40 CFR 63.4130(k)(8) and (9) to be 40 CFR 63.4130(k)(7) and (8) because the current paragraph 40 CFR 63.4130(k) is missing a paragraph (k)(7);
- Revising the rule citation ''§ 63.4130(k)(9)'' in 40 CFR 63.4163(e) to be ''§ 63.4130(k)(8),'' consistent with the proposed renumbering of 40 CFR 63.4130(k)(9) to (k)(8);
- Clarifying that 40 CFR 63.4131(a) applies to all records that were submitted as reports electronically via the EPA's CEDRI and adding text to the same provision to clarify that the ability to maintain electronic copies does not affect the requirement for facilities to make records, data, and reports available upon request to a delegated air agency or the EPA as part of an on-site compliance evaluation; and
- Revising 40 CFR 63.4141(b) and (c) to update ASTM International (ASTM) D1475–90 to ASTM D1475–13, including IBR of the newer version of the method.

We are finalizing corrections to several erroneous rule citations:

- Revising one instance in 40 CFR 63.4160(a)(1) and three instances in 40 CFR 63.4160(b)(1) that an erroneous rule citation ''§ 63.4183'' is specified. Section 63.4183 does not exist in 40 CFR part 63, subpart NNNN, and the corrected citation is ''§ 63.4083'';
- Revising one instance in 40 CFR 63.4110(b)(10) of an erroneous rule citation ''§ 63.4081(d).'' The corrected citation is ''§ 63.4081(e)'';
- Revising one instance in 40 CFR 63.4130(f) and one instance in 40 CFR 63.4130(g) of an erroneous rule citation of ''§ 63.4141(a).'' The corrected citation is ''§ 63.4141'';
- Revising one instance in 40 CFR 63.4168(c)(2) where an erroneous rule citation ''§ 63.6167(b)(1) and (2)'' is specified. The corrected citation is to ''§ 63.4167(b)(1) and (2)'';
- Revising the rule citation for ''§ 63.4120(b)'' specified in the fourth column of the table entry for ''§ 63.10(d)(2).'' The corrected citation is ''§ 63.4120(h)'';
- Revising the rule citation ''§ 63.4120(b)'' specified in the fourth column of the table entry for ''§ 63.10(e)(3).'' The corrected citation is ''§ 63.4120(g)''; and
- Clarifying that 40 CFR 63.4152(c) requires a statement that the source was in compliance with the emission limitations during the reporting period applies only if there were no deviations from the emission limitations.

The above clarifications and corrections were proposed in the September 12, 2018, RTR proposal. No comments were received during the public comment period and these changes are being finalized as proposed.

2. What other changes have been made to the Printing, Coating, and Dyeing of Fabrics and Other Textiles source category NESHAP?

We are finalizing the proposal to amend 40 CFR 63.4350(a)(3) and (b)(3); and 40 CFR 63.4351(a) and (e) to correct the references to the alternative control device outlet organic HAP concentration limit from 20 parts per million by weight to 20 ppmv.

In addition, we are finalizing several miscellaneous technical amendments to improve the clarity of the rule requirements:

- Clarifying that a thermocouple is part of the temperature indicator referred to in 40 CFR 63.4364(c) for purposes of performing periodic calibration and verification checks;
- Clarifying that 40 CFR 63.4313(a) applies to all records that were submitted as reports electronically via the EPA's CEDRI and adding text to the same provision to clarify that the ability to maintain electronic copies does not affect the requirement for facilities to make records, data, and reports available upon request to a delegated air agency or the EPA as part of an on-site compliance evaluation;
- Amending a reporting requirement in 40 CFR 63.4342(f) to harmonize the requirement with the same reporting requirement in 40 CFR 63.4311(a)(4) that requires the same statement to be reported if ''there were no deviations from the emission limitations in §§ 63.4290, 63.4292, and 63.4293'';
- Revising one instance in 40 CFR 63.4311(a)(7)(i)(B) to add a reference for an equation that is missing by adding ''6'' to the list of equations cited in 40 CFR 63.4311(a)(7)(i)(B) so that the citation reads ''Equations 4, 4A, 5, 6, and 7 of § 63.4331'';
- Revising one instance in 40 CFR 63.4340(b)(3) in which an erroneous rule citation to ''§ 63.4561'' is corrected to ''§ 63.4341''; and
- Correcting Table 3 to 40 CFR part 63, subpart OOOO in the fourth column of the table entry for ''§ 63.8(g)(1)–(5)'' that erroneously refers to ''sections 63.4342 and 63.4352.'' The correct reference is ''Sections 63.4363 and 63.4364.''

The above clarifications and corrections were proposed in the

[2] *See https://www.epa.gov/fera/dose-response-assessment-assessing-health-risks-associated-exposure-hazardous-air-pollutants.*

September 12, 2018, RTR proposal. No comments were received during the public comment period and these changes are being finalized as proposed.

3. What other changes have been made to the Surface Coating of Metal Furniture source category NESHAP?

We are finalizing several proposed miscellaneous technical amendments to improve the clarity of the rule requirements:

- Clarifying that a thermocouple is part of the temperature sensor referred to in 40 CFR 63.4967(c)(3) for purposes of performing periodic calibration and verification checks;
- Clarifying that 40 CFR 63.4931(a) applies to all records that were submitted as reports electronically via the EPA's CEDRI and adding text to the same provision to clarify that the ability to maintain electronic copies does not affect the requirement for facilities to make records, data, and reports available upon request to a delegated air agency or the EPA as part of an on-site compliance evaluation;
- Revising the second sentence of 40 CFR 63.4920(a)(4) to correct an erroneous reference to ''the emission limitations in § 63.4890.'' The correct reference is to the applicable emission limitations in 40 CFR 63.4890, 63.4892, and 63.489;
- Changing ''emission limitations'' in the first sentence of 40 CFR 63.4920(a)(4) to ''emission limits'';
- Revising 40 CFR 63.4941(c) to update ASTM D1475–90 to ASTM D1475–13, including IBR of the newer version of the method;
- Revising 40 CFR 63.4951(c) to remove repetition with the cross-referenced 40 CFR 63.4941(c); and
- Correcting Table 2 to 40 CFR part 63, subpart RRRR in the fourth column of the table entry for ''§ 63.10(e)(3)'' for an erroneous rule citation of ''§ 63.4920(b).'' The correct rule citation is ''§ 63.4920(a).''

The above clarifications and corrections were proposed in the September 12, 2018, RTR proposal. No comments were received during the public comment period and these changes are being finalized as proposed.

E. What are the effective and compliance dates of the standards?

The effective date of all three final rules is March 15, 2019. We are finalizing two changes that would impact ongoing compliance requirements for each of these three subparts. We are adding a requirement that notifications, performance test results, and semiannual compliance reports be submitted electronically using the new template for each subpart that was included in the docket for each proposed rule. We are also changing the requirements for SSM by removing the exemption from the requirements to meet the standard during SSM periods and by removing the requirement to develop and implement an SSM plan. From our assessment of the timeframe needed for implementing the entirety of the revised requirements, the EPA proposed a period of 180 days to be the most expeditious compliance period practicable. No comments were received during the public comment period and the 180-day period is being finalized as proposed. Thus, the compliance date of the final amendments for all affected sources will be September 11, 2019.

F. What are the requirements for submission of performance test data to the EPA?

As proposed, the EPA is taking a step to increase the ease and efficiency of data submittal and data accessibility. Specifically, the EPA is finalizing the requirement for owners and operators of facilities in the Surface Coating of Large Appliances; the Printing, Coating, and Dyeing of Fabrics and Other Textiles; and the Surface Coating of Metal Furniture source categories to submit electronic copies of certain required performance test reports.

Data will be collected by direct computer-to-computer electronic transfer using EPA-provided software. This EPA-provided software is an electronic performance test report tool called the ERT (Electronic Reporting Tool). The ERT will generate an electronic report package which will be submitted to CEDRI, and then archived to the EPA's CDX. A description of the ERT and instructions for using ERT can be found at *https://www3.epa.gov/ttn/chief/ert/index.html.* CEDRI can be accessed through the CDX website (*https://cdx.epa.gov/*).

The requirement to submit performance test data electronically to the EPA does not create any additional performance testing and will apply only to those performance tests conducted using test methods that are supported by the ERT. A listing of the pollutants and test methods supported by the ERT is available at the ERT website. Through this approach, industry will save time in the performance test submittal process. Additionally, this rulemaking will benefit industry by reducing recordkeeping costs, as the performance test reports that are submitted to the EPA using CEDRI are no longer required to be kept in hard copy.

State, local, and tribal agencies may benefit from a more streamlined and accurate review of performance test data that will become available to the public through WebFIRE. Having such data publicly available enhances transparency and accountability. For a more thorough discussion of electronic reporting of performance tests using direct computer-to-computer electronic transfer and using EPA-provided software, *see* the discussion in the preamble of the proposal.

In summary, in addition to supporting regulation development, control strategy development, and other air pollution control activities, having an electronic database populated with performance test data will save industry, state, local, tribal agencies, and the EPA significant time, money, and effort while improving the quality of emission inventories and air quality regulations.

IV. What is the rationale for our final decisions and amendments for these three surface coating source categories?

A. Residual Risk Reviews

1. What did we propose pursuant to CAA section 112(f)?

a. Surface Coating of Large Appliances (40 CFR part 63, Subpart NNNN) Source Category

Pursuant to CAA section 112(f), the EPA conducted a residual risk review and presented the results of this review, along with our proposed decisions regarding risk acceptability and ample margin of safety, in the September 12, 2018, proposed rule for 40 CFR part 63, subpart NNNN (83 FR 46262). The results of the risk assessment for the proposal are presented briefly below in Table 2 of this preamble. More detail is in the residual risk technical support document, ''Residual Risk Assessment for the Surface Coating of Large Appliances Source Category in Support of the May 2018 Risk and Technology Review Proposed Rule,'' available in the docket for this rulemaking.

TABLE 2—SURFACE COATING OF LARGE APPLIANCES SOURCE CATEGORY INHALATION RISK ASSESSMENT RESULTS AT PROPOSAL

Risk assessment	Maximum individual cancer risk (in 1 million)		Estimated population at increased risk of cancer ≥1-in-1 Million		Estimated annual cancer incidence (cases per year)		Maximum chronic noncancer TOSHI [1]		Maximum screening acute noncancer HQ [2]
	Based on actual emissions	Based on allowable emissions	Based on actual emissions	Based on allowable emissions	Based on actual emissions	Based on allowable emissions	Based on actual emissions	Based on allowable emissions	Based on actual emissions
Source Category	0.9	1	0	50	0.0001	0.0002	0.07	0.08	HQREL = 2
Whole Facility	6	.....	600	.....	0.0002	.....	0.2	.....	

[1] The target organ-specific hazard index (TOSHI) is the sum of the chronic noncancer hazard quotients (HQ) values for substances that affect the same target organ or organ system.
[2] The maximum estimated acute exposure concentration was divided by available short-term threshold values to develop HQ values (HQREL = hazard quotient recommended exposure level).

The results of the proposal inhalation risk modeling using actual emissions data, as shown in Table 2 of this preamble, indicate that the maximum individual cancer risk based on actual emissions (lifetime) could be up to 0.9-in-1 million, the maximum chronic noncancer TOSHI value based on actual emissions could be up to 0.07, and the maximum screening acute noncancer HQ value (off-facility site) could be up to 2 (driven by glycol ethers). At proposal, the total annual cancer incidence (national) from these facilities based on actual emission levels was estimated to be 0.0001 excess cancer cases per year, or one case in every 10,000 years.

The results of the proposal inhalation risk modeling using allowable emissions data, as shown in Table 2 of this preamble, indicate that the maximum individual cancer risk based on allowable emissions (lifetime) could be up to 1-in-1 million, and the maximum chronic noncancer TOSHI value based on allowable emissions could be up to 0.08. At proposal, the total annual cancer incidence (national) from these facilities based on allowable emission levels was estimated to be 0.0002 excess cancer cases per year, or one case in every 5,000 years.

The maximum whole-facility cancer maximum individual risk (MIR) was determined to be 6-in-1 million at proposal, driven by chromium (VI) compounds from a cleaning/pretreatment operation. At proposal, the total estimated cancer incidence from whole facility emissions was determined to be 0.0002 excess cancer cases per year, or one excess case in every 5,000 years. Approximately 600 people were estimated to have cancer risks above 1-in-1 million from exposure to HAP emitted from both MACT and non-MACT sources at the 10 facilities in this source category. The maximum facility-wide TOSHI for the source category was estimated to be 0.2, driven by emissions of methylene diphenyl diisocyanate from foam produced as part of plastic products manufacturing.

There are no persistent and bioaccumulative HAP (PB HAP) emitted by facilities in this source category. Therefore, we did not estimate any human health multi-pathway risks from this source category. Two environmental HAP are emitted by sources within this source category: Hydrogen chloride (HCl) and hydrogen flouride (HF). Therefore, at proposal we conducted a screening-level evaluation of the potential adverse environmental risks associated with emissions of HCl and HF. Based on this evaluation, we proposed that we do not expect an adverse environmental effect as a result of HAP emissions from this source category.

We weighed all health risk factors, including those shown in Table 2 of this preamble, in our risk acceptability determination and proposed that the residual risks from the Surface Coating of Large Appliances source category are acceptable (section IV.A.2.a of proposal preamble, 83 FR 46279, September 12, 2018).

We then considered whether 40 CFR part 63, subpart NNNN provides an ample margin of safety to protect public health and prevents, taking into consideration costs, energy, safety, and other relevant factors, an adverse environmental effect. In considering whether the standards should be tightened to provide an ample margin of safety to protect public health, we considered the same risk factors that we considered for our acceptability determination and also considered the costs, technological feasibility, and other relevant factors related to emissions control options that might reduce risk associated with emissions from the source category.

As discussed further in section III.B. of this preamble, the only development identified in the technology review was the use of high-efficiency spray equipment. We estimated no changes in costs or emissions would occur due to switching to high-efficiency application methods for this source category, because we expected that large appliance surface coating facilities already are using high-efficiency coating application methods due to state volatile organic compound (VOC) rules and the economic incentives of using more efficient application methods. Because quantifiable reductions in risk are unlikely, we proposed that additional emissions controls for this source category are not necessary to provide an ample margin of safety (section IV.A.2.b. of proposal preamble, 83 FR 46279, September 12, 2018).

b. Printing, Coating, and Dyeing of Fabrics and Other Textiles (40 CFR Part 63, Subpart OOOO) Source Category

Pursuant to CAA section 112(f), the EPA conducted a residual risk review and presented the results of this review, along with our proposed decisions regarding risk acceptability and ample margin of safety, in the September 12, 2018, proposed rule for 40 CFR part 63, subpart OOOO (83 FR 46262). The results of the risk assessment for the proposal are presented briefly below in Table 3 of this preamble. More detail is in the residual risk technical support document, ''Residual Risk Assessment for the Printing, Coating, and Dyeing of Fabrics and Other Textiles Source Category in Support of the May 2018 Risk and Technology Review Proposed Rule,'' available in the docket for this rulemaking.

TABLE 3—PRINTING, COATING, AND DYEING OF FABRICS AND OTHER TEXTILES SOURCE CATEGORY INHALATION RISK ASSESSMENT RESULTS AT PROPOSAL

Risk assessment	Maximum individual cancer risk (in 1 million)		Estimated population at increased risk of cancer ≥1-in-1 million		Estimated annual cancer incidence (cases per year)		Maximum chronic noncancer TOSHI [1]		Maximum screening acute noncancer HQ [2]
	Based on actual emissions	Based on allowable emissions	Based on actual emissions	Based on allowable emissions	Based on actual emissions	Based on allowable emissions	Based on actual emissions	Based on allowable emissions	Based on actual emissions
Source Category	9	10	8,500	10,000	0.002	0.002	0.3	0.3	HQREL = 0.6
Whole Facility	9	.....	12,200	.....	0.003	.....	0.3	.....	

[1] The target organ-specific hazard index (TOSHI) is the sum of the chronic noncancer hazard quotient (HQ) values for substances that affect the same target organ or organ system.

[2] The maximum estimated acute exposure concentration was divided by available short-term threshold values to develop HQ values (HQREL = hazard quotient recommended exposure level).

The results of the proposal inhalation risk modeling using actual emissions data, as shown in Table 3 of this preamble, indicate that the maximum individual cancer risk based on actual emissions (lifetime) could be up to 9-in-1 million (driven by ethylene oxide), the maximum chronic noncancer TOSHI value based on actual emissions could be up to 0.3, and the maximum screening acute noncancer HQ value (off-facility site) could be up to 0.6. At proposal, the total annual cancer incidence (national) from these facilities based on actual emission levels was estimated to be 0.002 excess cancer cases per year, or one case in every 500 years.

The results of the proposal inhalation risk modeling using allowable emissions data, as shown in Table 3 of this preamble, indicate that the maximum individual cancer risk based on allowable emissions (lifetime) could be up to 10-in-1 million (driven by ethylene oxide), the maximum chronic noncancer TOSHI value based on allowable emissions could be up to 0.3. At proposal, the total annual cancer incidence (national) from these facilities based on allowable emission levels was estimated to be 0.002 excess cancer cases per year, or one case in every 500 years.

The maximum facility-wide cancer MIR was 9-in-1 million at proposal, driven by ethylene oxide from fabric finishing. The results of our facility-wide assessment at proposal indicated that 12 facilities have a facility-wide cancer MIR greater than or equal to 1-in-1 million. At proposal the total estimated cancer incidence from whole facility emissions was determined to be 0.003 excess cancer cases per year, or one excess case in every 330 years. Approximately 12,200 people were estimated to have cancer risks above 1-in-1 million from exposure to HAP emitted from both MACT and non-MACT sources collocated at the 43 facilities in this source category. The maximum facility-wide TOSHI for the source category was estimated to be 0.3, driven by emissions of trichloroethylene from adhesive application.

There are no PB–HAP emitted by facilities in this source category. Therefore, we did not estimate any human health multi-pathway risks from this source category. Environmental HAP are not emitted by sources within this source category; therefore, we do not expect an adverse environmental effect as a result of HAP emissions from this source category.

We weighed all health risk factors, including those shown in Table 3 of this preamble, in our risk acceptability determination, and proposed that the residual risks from the Printing, Coating, and Dyeing of Fabrics and Other Textiles source category are acceptable (section IV.B.2.a of proposal preamble, 83 FR 46292, September 12, 2018).

We then considered whether 40 CFR part 63, subpart OOOO provides an ample margin of safety to protect public health and prevents, taking into consideration costs, energy, safety, and other relevant factors, an adverse environmental effect. In considering whether the standards should be tightened to provide an ample margin of safety to protect public health, we considered the same risk factors that we considered for our acceptability determination and also considered the costs, technological feasibility, and other relevant factors related to emissions control options that might reduce risk associated with emissions from the source category.

Based on our review, we did not identify any developments in add-on control technologies, other equipment or work practices and procedures since the promulgation of the Printing, Coating, and Dyeing of Fabrics and Other Textiles NESHAP. We note, however, that the only facility that previously reported ethylene oxide emissions no longer emits this HAP as a result of a process change. Therefore, we proposed that additional emissions controls for this source category are not necessary to provide an ample margin of safety (section IV.B.2.b. of proposal preamble, 83 FR 46293, September 12, 2018). However, we solicited comment on whether the Agency should ban the use of ethylene oxide in this source category under the technology review (section VI of proposal preamble, 83 FR 46313, September 12, 2018). Our response to these comments and rationale for our final decision are found in section IV.B of this preamble.

c. Surface Coating of Metal Furniture (40 CFR Part 63, Subpart RRRR) Source Category

Pursuant to CAA section 112(f), the EPA conducted a residual risk review and presented the results of this review, along with our proposed decisions regarding risk acceptability and ample margin of safety, in the September 12, 2018, proposed rule for 40 CFR part 63, subpart RRRR (83 FR 46262). The results of the risk assessment for the proposal are presented briefly below in Table 4 of this preamble. More detail is in the residual risk technical support document, ''Residual Risk Assessment for the Surface Coating of Metal Furniture Source Category in Support of the May 2018 Risk and Technology Review Proposed Rule,'' available in the docket for this rulemaking.

TABLE 4—SURFACE COATING OF METAL FURNITURE SOURCE CATEGORY INHALATION RISK ASSESSMENT RESULTS AT PROPOSAL

Risk assessment	Maximum individual cancer risk (in 1 million)		Estimated population at increased risk of cancer ≥1-in-1 million		Estimated annual cancer incidence (cases per year)		Maximum chronic noncancer TOSHI [1]		Maximum screening acute noncancer HQ [2]
	Based on actual emissions	Based on allowable emissions	Based on actual emissions	Based on allowable emissions	Based on actual emissions	Based on allowable emissions	Based on actual emissions	Based on allowable emissions	Based on actual emissions
Source Category	7	10	2,100	4,200	0.0004	0.0008	0.2	0.3	HQREL = 2
Whole Facility	7	.....	2,200	.....	0.0005	.....	0.1	.....	

[1] The TOSHI is the sum of the chronic noncancer HQ values for substances that affect the same target organ or organ system.
[2] The maximum estimated acute exposure concentration was divided by available short-term threshold values to develop HQ values (HQREL = hazard quotient recommended exposure level).

The results of the proposal inhalation risk modeling using actual emissions data, as shown in Table 4 of this preamble, indicate that the maximum individual cancer risk based on actual emissions (lifetime) could be up to 7-in-1 million (driven by ethyl benzene), the maximum chronic noncancer TOSHI value based on actual emissions could be up to 0.2, and the maximum screening acute noncancer HQ value (off-facility site) could be up to 2 (driven by glycol ethers). At proposal, the total annual cancer incidence (national) from these facilities based on actual emission levels was estimated to be 0.0004 excess cancer cases per year, or one case in every 2,500 years.

The results of the proposal inhalation risk modeling using allowable emissions data, as shown in Table 4 of this preamble, indicate that the maximum individual cancer risk based on allowable emissions (lifetime) could be up to 10-in-1 million (driven by ethyl benzene), the maximum chronic noncancer TOSHI value based on allowable emissions could be up to 0.3. At proposal, the total annual cancer incidence (national) from these facilities based on allowable emission levels was estimated to be 0.0008 excess cancer cases per year, or one case in every 1,250 years.

The maximum facility-wide cancer MIR was 7-in-1 million at proposal, driven by ethyl benzene. Four facilities had a facility-wide cancer MIR greater than or equal to 1-in-1 million. At proposal, the total cancer incidence from whole facility emissions was estimated to be 0.0005 excess cancer cases per year, or one excess case in every 2,000 years. Approximately 2,200 people were estimated to have cancer risks above 1-in-1 million from exposure to HAP emitted from both MACT and non-MACT sources at the 16 facilities in this source category. The maximum facility-wide TOSHI for the source category was estimated to be 0.1.

There are no PB–HAP emitted by facilities in this source category. Therefore, we did not estimate any human health multi-pathway risks from this source category. Environmental HAP are not emitted by sources within this source category; therefore, we do not expect an adverse environmental effect as a result of HAP emissions from this source category.

We weighed all health risk factors, including those shown in Table 4 of this preamble, in our risk acceptability determination, and proposed that the residual risks from the Surface Coating of Metal Furniture source category are acceptable (section IV.C.2.a of proposal preamble, 83 FR 46301, September 12, 2018).

We then considered whether 40 CFR part 63, subpart RRRR provides an ample margin of safety to protect public health and prevents, taking into consideration costs, energy, safety, and other relevant factors, an adverse environmental effect. In considering whether the standards should be tightened to provide an ample margin of safety to protect public health, we considered the same risk factors that we considered for our acceptability determination and also considered the costs, technological feasibility, and other relevant factors related to emissions control options that might reduce risk associated with emissions from the source category.

As discussed in detail in section III.B of this preamble, the only development identified in the technology review was the use of high-efficiency spray equipment. We estimated no changes in costs or emissions reductions would occur due to switching to high-efficiency application methods for this source category because we expected that metal furniture surface coating facilities were already using high-efficiency coating application methods due to state VOC rules and the economic incentives of using these more efficient application methods. Because quantifiable reductions in risk are unlikely, we proposed that additional emissions controls for this source category were not necessary to provide an ample margin of safety (section IV.C.2.b. of proposal preamble, 83 FR 46302, September 12, 2018).

2. How did the risk review change?

We have not changed any aspect of the risk assessment since the September 2018 proposal for any of the three source categories.

3. What key comments did we receive on the risk reviews, and what are our responses?

We received comments in support of and against the proposed residual risk review and our determination that no revisions were warranted under CAA section 112(f)(2) for all three source categories. Generally, the comments that were not supportive of the determination from the risk reviews suggested changes to the underlying risk assessment methodology. For example, some commenters stated that the EPA should lower the acceptability benchmark so that risks below 100-in-1 million are unacceptable, include emissions outside of the source categories in question in the risk assessment, and assume that pollutants with noncancer health risks have no safe level of exposure. After review of all the comments received, we determined that no changes were necessary. The comments and our specific responses can be found in the document, ''Summary of Public Comments and Responses for the Risk and Technology Reviews for Surface Coating of Large Appliances; Printing, Coating, and Dyeing of Fabrics and Other Textiles; and Surface Coating of Metal Furniture,'' available in the dockets for these actions (Docket ID Nos. EPA–HQ–OAR–2017–0668, EPA–HQ–OAR–2017–0669, and EPA–HQ–OAR–2017–0670).

4. What is the rationale for our final approach and final decisions for the risk reviews?

As noted in our proposal, the EPA sets standards under CAA section 112(f)(2) using ''a two-step standard-setting approach, with an analytical first step to determine an 'acceptable risk' that considers all health information, including risk estimation uncertainty, and includes a presumptive limit on MIR of ''approximately 1-in-10 thousand'' (*see* 54 FR 38045, September 14, 1989). We weigh all health risk factors in our risk acceptability determination, including the cancer MIR, cancer incidence, the maximum cancer TOSHI, the maximum acute noncancer HQ, the extent of noncancer risks, the distribution of cancer and noncancer risks in the exposed population, and the risk estimation uncertainties.

Since proposal, neither the risk assessment nor our determinations regarding risk acceptability, ample margin of safety, or adverse environmental effects have changed. For the reasons explained in the proposed rule, we determined that the risks from each of these three source categories are acceptable, and the current standards provide an ample margin of safety to protect public health and prevent an adverse environmental effect. Therefore, we are not revising any of these three subparts to require additional controls pursuant to CAA section 112(f)(2) based on the residual risk review, and we are readopting the existing standards under CAA section 112(f)(2).

B. Technology Reviews

1. What did we propose pursuant to CAA section 112(d)(6)?

The Surface Coating of Large Appliances NESHAP and the Surface Coating of Metal Furniture NESHAP do not contain any standards specifying the type of spray application equipment that must be used when coatings are spray applied. Sources subject to the Printing, Coating, and Dyeing of Fabric and Other Textiles NESHAP do not spray apply coatings. However, many facilities complying with these NESHAP also are required by state VOC regulations to use high-efficiency spray guns for coatings that are spray applied. We expected that other large appliance surface coating and metal furniture surface coating facilities in other states are also using high-efficiency application equipment for spray-applied coatings to reduce coating and spray booth filter consumption and to reduce the amount of solid waste generated in the form of used spray booth filters. Although we expected that switching to high-efficiency spray application equipment would have lower costs at facilities not already using it, we are uncertain of other factors that facilities may need to consider if choosing to switch to high-efficiency application equipment.

Based on these findings, we proposed to revise the Surface Coating of Large Appliances NESHAP and the Surface Coating of Metal Furniture NESHAP for coating application operations pursuant to CAA section 112(d)(6) to require that, for each coating operation for which coatings are spray applied, high-efficiency spray equipment must be used if the source is not using the emission rate with add-on control compliance option. Specifically, all spray-applied coating operations, where the source is not using the emission rate with add-on control compliance option, would have been required to achieve transfer efficiency equivalent to or better than 65 percent. At proposal four types of high-efficiency spray equipment technologies were identified that the EPA believed could achieve transfer efficiency equivalent to or better than 65 percent, including high volume, low pressure (HVLP) spray equipment; electrostatic application; airless spray equipment; and air-assisted airless spray equipment. Alternative spray equipment technologies would have had to provide documentation demonstrating at least 65-percent transfer efficiency. Spray application equipment sources using alternative spray application equipment technologies other than the four listed would have had to follow procedures in the California South Coast Air Quality Management District's, ''Spray Equipment Transfer Efficiency Test Procedure for Equipment User, May 24, 1989,'' to demonstrate that their spray application equipment is capable of achieving transfer efficiency equivalent to, or better than, 65 percent. Equivalency documentation would have been certified by manufacturers of the spray equipment, on behalf of facilities using spray-applied coatings, by following the aforementioned procedure in conjunction with California South Coast Air Quality Management District's, ''Guidelines for Demonstrating Equivalency with District Approved Transfer Efficient Spray Guns, September 26, 2002.'' We proposed that all spray equipment used for spray-applied coating operations be required to be operated according to company procedures, local specified operating procedures, or the manufacturer's specifications, whichever achieved 65-percent transfer efficiency. Further, we proposed related definitions for ''airless and air-assisted airless spray,'' ''electrostatic application,'' ''high-volume, low-pressure (HVLP) spray equipment,'' ''spray-applied coating operations,'' ''and transfer efficiency.''

For the Printing, Coating, and Dyeing of Fabrics and Other Textiles source category, we identified one potential development in technology: A process change that eliminated the use of ethylene oxide at one facility. In our residual risk analysis for this source category, we estimated the maximum facility-wide cancer MIR to be 9-in-1 million, driven by ethylene oxide emissions from fabric finishing at one facility. During a site visit to the facility that reported ethylene oxide emissions in the National Emission Inventory, we learned that the ethylene oxide emissions were overstated by the facility. The facility confirmed that it no longer uses the ethylene oxide-containing material due to cost. We noted this was the only facility that reported ethylene oxide emissions, and we concluded that ethylene oxide-containing materials are no longer used in the industry, based on our information. We solicited comment on whether the Agency should ban the use of ethylene oxide in this source category under the technology review.

We also solicited comment on the relationship between the CAA section 112(d)(6) technology review and the CAA section 112(f) risk review. We solicited comment on whether revisions to the NESHAP are ''necessary,'' as the term is used in CAA section 112(d)(6), in situations where the EPA has determined that CAA section 112(d) standards evaluated pursuant to CAA section 112(f) provide an ample margin of safety to protect public health and prevent an adverse environmental effect. In other words, we solicited comment on whether it is ''necessary'' to revise the standards based on developments in technologies, practices, or processes under CAA section 112(d)(6) if remaining risks associated with air emissions from a source category have already been reduced to levels that provide an ample margin of safety under CAA section 112(f). *See* CAA section 112(d)(6) (''The Administrator shall review, and revise as necessary . . .''). We also solicited comment on whether further revisions under CAA section 112(d)(6) would be necessary if the CAA section 112(f) ample margin of safety analysis shows lifetime excess cancer risks to the individual most exposed to emissions from a source in the category is less than 1-in-1 million or if other, either higher

or lower, cancer risk levels would be appropriate to consider if they assured an ample margin of safety.

2. How did the technology review change?

We are not finalizing the proposal to require the use of high-efficiency application equipment for spray-applied coatings in the Surface Coating of Large Appliances NESHAP and the Surface Coating of Metal Furniture NESHAP.

We solicited comment on the potential process change that eliminated the use of ethylene oxide at one facility, but did not propose this requirement for the Printing, Coating, and Dyeing of Fabrics and Other Textiles source category. Based on the comments we received, we are making no changes as a result of the technology review to the Printing, Coating, and Dyeing of Fabrics and Other Textiles NESHAP.

3. What key comments did we receive on the technology reviews, and what are our responses?

Comment: One commenter supported the EPA's proposal to require Large Appliances and Metal Furniture facilities to use high-efficiency spray equipment as a technology development under CAA section 112(d)(6). However, the commenter disagreed with the EPA's conclusion that all or most sources are likely using high-efficiency spray equipment. They argued that the EPA provided no evidence there would be no emission reduction, and argued that the proposed requirement would prevent emission increases in the future if economic incentives or state rules currently encouraging the use of high-efficiency spray equipment change.

Another commenter objected to the proposed language that all ''spray application equipment must be operated according to company procedures, local specified operating procedures, and/or the manufacturer's specifications, whichever is most stringent, at all times.'' The commenter argued that it was unclear how facilities would ensure the equipment is operated according to the more stringent approach so as to avoid having a potential permit deviation/violation even though they may still be complying with the underlying numerical emission standard.

Response: The EPA has determined not to finalize the proposed requirement for all sources to use high-efficiency spray application technology that has a transfer efficiency of at least 65 percent because we believe our assumptions at proposal may not be appropriate for all coating-related processes in the metal furniture and large appliances source categories. We do not have sufficient data at this time to determine if the high-efficiency spray application technology requirement is reasonable from a technological perspective.

At proposal, a critical assumption we made was that the four high-efficiency spray equipment technologies required in the proposed rulemaking (HVLP, electrostatic application, airless and air assisted airless spray equipment) would achieve at least 65-percent transfer efficiency when used by all facilities in the Surface Coating of Metal Furniture and Surface Coating of Large Appliances source categories. New information, however, leads us to conclude that the transfer efficiency of the proposed high-efficiency spray application technologies may be less than 65 percent, as it is dependent on parameters such as part size, part shape, distance of the spray gun from the parts, atomizing air pressure, fluid pressure, painting technique, type of coating, viscosity of the coating, and more. Generally, the smaller and narrower the part being coated, the lower the transfer efficiency. Conversely, the larger and wider the part being painted, the higher the transfer efficiency. Therefore, transfer efficiency varies greatly source category-by-source category. In both the Surface Coating of Metal Furniture and Surface Coating of Large Appliances source categories, parts are of various shapes and sizes; therefore, transfer efficiency using high-efficiency spray application technologies could be lower than the 65-percent transfer efficiency requirement in the proposed rule, depending on the size and shape of the parts being coated.

Additionally, we did not receive any data that would allow us to determine the actual average transfer efficiency of the spray application technologies we identified in the proposed rule. In light of this uncertainty, we conclude it would be difficult, if not impossible, to determine at this time the appropriate high-efficiency spray application technologies or transfer efficiency to require. Absent more data and information, we are not able to adequately estimate the technical feasibility of the proposed 65-percent transfer efficiency requirement for the Surface Coating of Metal Furniture and Surface Coating of Large Appliances source categories.

The situation for the Surface Coating of Metal Furniture and Surface Coating of Large Appliances source categories is different from other rules where we have required use of high-efficiency spray application. For example, the high-efficiency spray application requirements in the Aerospace Manufacturing and Rework Operations NESHAP were based on available data that allowed us to estimate the technological feasibility of the requirements. Absent similar data for the Surface Coating of Metal Furniture and Surface Coating of Large Appliances source categories, we believe it is not reasonable to require the use of the high-efficiency spray application technologies proposed pursuant to CAA section 112(d)(6) at this time. The EPA, in the future, may be able to determine the technological capabilities of high-efficiency spray application equipment for the Surface Coating of Metal Furniture and Surface Coating of Large Appliances source categories and revisit the need to require such spray application equipment when we have sufficient data and information.

Finally, as noted in the proposed rule, we believe that most, if not all, sources in the Surface Coating of Metal Furniture and Surface Coating of Large Appliances source categories are already using the types of spray application technologies in the proposed rule pursuant to state requirements. We believe that sources will continue to use these technologies, even if it is not required in this final rule, because of the lower coating consumption and waste disposal costs. Nothing in the record supports the comments that states may remove these existing spray application technology requirements from current regulations. We do not expect sources to change from high-efficiency spray technology to lower-efficiency spray equipment, even if state requirements changed, unless there was a specific application that did not work with high-efficiency spray technology. In those cases, the limits on the HAP content of coatings would still apply. We do not think it is reasonable to assume sources would choose higher the coating and waste disposal costs associated with non-high-efficiency spray technology and incur the costs to switch back to non-high-efficiency spray technology, even if state requirements were removed.

For all these reasons, we are not finalizing the proposed requirement for sources in the Surface Coating of Metal Furniture and Surface Coating of Large Appliances source categories to use high-efficiency spray application equipment.

Comment: One commenter argued that the EPA should revise the Coating, Printing, and Dyeing of Fabric and Other Textiles NESHAP to ban the use of ethylene oxide. The commenter argued that failing to ban the use of ethylene oxide would allow facilities to

begin using and emitting this chemical in the future.

Two commenters argued that they saw no justification or rationale to support a ban on the use of ethylene oxide in the Printing, Coating, and Dyeing of Fabrics and Other Textiles source category because the decision by one company to stop using materials containing ethylene oxide based on cost did not represent a development in new control technologies, processes, or practices that could be deemed applicable and achievable by the rest of the source category. One of the commenters argued that, unlike technology changes where efficiency gains, emissions reductions, and similar advances are not easily reversed, market forces frequently change the business justification for and against using particular products.

The two commenters argued that the record reflects only a decision by one company based on a set of factors that may be applicable to only that one company and does not provide the statement of basis and purpose required by CAA section 307(d)(3). The commenters argued that additional information and data would be needed on potential costs and emissions reductions and stated that the EPA has not shown whether similar reductions are achievable across the source category. They argued that this information would need to be available for public review and comment. Otherwise, the EPA's proposal would be arbitrary and capricious.

Response: We received no additional information from other facilities in the Printing, Coating, and Dyeing of Fabric and Other Textiles source category on whether they use materials containing ethylene oxide. In addition, we cannot determine whether one facility's decision to stop using the material containing ethylene oxide as a cost savings measure demonstrates that all applications of ethylene oxide should be foreclosed as a development in technology. If sources in this category were to later determine that materials with ethylene oxide are necessary for a particular application, the sources would still be required to comply with the NESHAP limits on the HAP content of materials or HAP emissions for sources using add-on controls. Therefore, total HAP emissions are unlikely to increase even if sources were to start using ethylene oxide containing materials. Under these circumstances, we have determined it is not reasonable to conclude that ethylene oxide containing coatings should be prohibited for use by all sources in the category as an advancement in technology. Finally, we cannot determine whether finalizing a ban on the use of materials containing ethylene oxide would reduce HAP from the source category or otherwise achieve any environmental or risk reduction benefits. For these reasons, we are not finalizing a ban on the use of materials containing ethylene oxide.

Comment: We received several substantive and extensive comments in response to our request for comments on the relationship between the technology review conducted under CAA section 112(d)(6) and the risk analysis under CAA section 112(f)(2) and whether it is necessary for the EPA to amend rules based on CAA section 112(d) to reflect the results of the CAA section 112(d)(6) technology review if the results of the risk analysis under CAA section 112(f)(2) show that the current rule provides an ample margin of safety and no adverse environmental effect. One commenter argued that the EPA must complete the technology review and propose standards based on the findings of that review, regardless of the results of the risk analysis. Other commenters argued that the results of the risk analysis should be considered in the ''necessity'' determination that should be completed in the process of deciding whether to amend a subpart as a result of the technology review.

Response: The EPA is not taking final action on the proposed interpretation discussed in this comment. Instead, the EPA has determined for the reasons described in this notice not to implement the proposed amendments to 40 CFR part 63, subparts NNNN, OOOO, or RRRR based on our technology review. As we are not relying on the proposed interpretation in our final action, we are not addressing the comments we received regarding the relationship between the technology review conducted under CAA section 112(d)(6) and the risk analysis under CAA section 112(f)(2).

4. What is the rationale for our final approach for the technology reviews?

As noted above, we are not finalizing the proposed requirement to use high-efficiency spray application equipment with a 65-percent or better transfer efficiency. We received no information in response to our request for comment on whether any facilities in this source category do not currently use high-efficiency spray application methods, so it is unclear whether the proposed requirement is achievable for all sources in the category. We also received information indicating that the four types of high-efficiency spray application equipment described in our proposed rule do not always achieve the 65-percent transfer efficiency that we proposed to require for high-efficiency spray equipment.

We are not including in the final rule amendments for the Printing, Coating, and Dyeing of Fabrics and Other Textiles NESHAP any requirements to ban the use of ethylene oxide in this source category. We received no additional information from other facilities on whether they use materials containing ethylene oxide, so we cannot determine whether a ban would achieve any environmental or risk reduction benefits.

C. Ongoing Emissions Compliance Demonstrations

1. What did we propose?

The EPA requested comment for all three source categories on whether additional performance testing should be required for any source using the add-on control option based on information from pollution control manufacturers indicating that periodic performance tests are necessary to ensure HAP removal efficiency for the controls is maintained over time. *See* Proposed Rule, 83 FR 46289. We specifically requested comment on whether we should require performance testing for a source that is planning to undertake an operational change that may adversely affect compliance with an applicable standard, operating limit, or parametric monitoring value. Any such requirement would have included provisions to allow a source to make the change, but it would have limited the change to a specific time before a test is required. We anticipated that a reasonable time limit under the new operations change would be approximately 30 days to allow adequate time for testing and developing a test report. The source would submit temperature and flow rate data during the test to establish new operating parameters, including the time a source would be allowed to operate under the new parameters before the test is performed, and what would constitute an operational change requiring testing.

This approach on which we requested comment could have also allowed an exception from periodic testing for facilities using instruments to continuously measure actual emissions, such as continuous emission monitoring systems (CEMS). Use of CEMS to demonstrate compliance would obviate the need for periodic oxidizer testing.

2. What changed since proposal?

In the final rule amendments for each subpart, the EPA is requiring performance testing of control devices at least every 5 years for facilities complying with the emission rate with add-on controls compliance option. The EPA solicited comment on the need for additional performance testing in the proposed rule (*see* sections IV.A.4.d, IV.B.4.d, and IV.C.4.d of the Surface Coating of Large Appliances; Printing, Coating, and Dyeing of Fabrics and Other Textiles; and Surface Coating of Metal Furniture Residual Risk and Technology Reviews, 83 FR 46289, 46299, and 46309, September 12, 2018).

3. What key comments did we receive and what are our responses?

Comment: One commenter did not support the requirement to complete additional add-on control performance testing after operational changes that may adversely affect compliance because the EPA did not define the operational changes that would trigger the need for performance testing. The commenter argued that the EPA did not define the anticipated costs, burdens, and benefits associated with this testing. The commenter also argued that the suggested 30-day period for testing and development of a test report is too short. The commenter recommended a period of at least 180 days to allow time to hire a testing contractor, to achieve stable (representative) operating conditions before the test, and to allow time for the contractor to prepare the report.

Another commenter supported the testing requirement after a process change that could affect compliance with an emission limit and noted that it was a common feature of MACT rules. The commenter suggested that examples of a process change could include venting additional equipment to the control device, an increase in line speeds, an increase in coating materials used, or use of new coating materials. However, the commenter also suggested that the 30-day timeframe to perform a test after a process change does not seem adequate to allow a facility time to schedule an outside contractor to perform the required testing, test report preparation, review by responsible official, and submission of results. The commenter recommended a 60-day or 90-day timeframe as more appropriate.

Response: The EPA is not finalizing a requirement to require add-on control performance testing after operational changes that may adversely affect compliance. The EPA acknowledges the difficultly in defining operational changes for each source category that would trigger the need for performance testing, as the EPA proposed. However, as described in the preamble to the proposed rules, the EPA recognizes the need for periodic performance testing after the initial performance test to measure the organic HAP destruction or removal efficiency of the add-on control device, or to measure the control device outlet concentration of organic HAP. As stated in the proposed rule, pollution control manufacturers maintain that additional performance testing is needed to ensure the control devices are operating properly. Continuous compliance with the standards when a facility is using the emission rate with add-on control or the control device outlet concentration compliance options that are included in each of these three subparts depends on the proper functioning of the control device.

Periodic performance tests require the measurement of the control devices' actual destruction efficiency or the actual outlet concentration of organic HAP, depending on the compliance option chosen, in order to reaffirm or reestablish the control devices' operating limits. Periodic performance tests help identify potential degradation of the add-on control device over time and ensure the control device remains effective, reducing the potential for acute emissions episodes or non-compliance. As stated in the proposed rule, many facilities using add-on controls to demonstrate compliance with the NESHAP emission limits are currently required to conduct performance tests as a condition for renewing their title V operating permit, which is required every 5 years. Also, specifying a specific performance test interval addresses the uncertainty of when tests would be required was raised by the commenters.

Therefore, the EPA is including in the final rule for each subpart a requirement that each facility using the emission rate with add-on control compliance option or the control device outlet concentration compliance option must complete a performance test of the add-on control device no less frequently than every 5 years. This approach will balance the need to ensure ongoing compliance against providing objective criteria for when performance testing must be completed.

The periodic testing requirement is being added to each subpart but is not estimated to impose any costs on the Surface Coating of Large Appliances or Surface Coating of Metal Furniture sources categories. No facilities in the Surface Coating of Metal Furniture source category are known to be using the emission rate with add-on controls compliance option. One facility in the Surface Coating of Large Appliances source category is using the emission rate with the add-on controls compliance option, but already is required to conduct performance testing every 5 years as a condition of renewing their title V operating permit. In the Printing, Coating, and Dyeing of Fabrics and Other Textiles source category, we have identified 13 facilities using 18 control devices that are not currently required to perform testing as a condition of renewing their title V operating permits. We estimate that performance testing will cost approximately $19,000 per control device once every 5 years. The annualized cost will be about $4,400 per control device.

One environmental benefit of periodic performance testing is expected to be in the form of reduced excess emissions from sources using add-on controls, even though facilities are required to be in compliance at all times, and the overall costs and benefits of a NESHAP are calculated based on the assumption that facilities are in compliance. However, this benefit cannot be quantified because our data are not sufficient to estimate the frequency of sources using add-on control devices failing to meet the emission standards, and the magnitude of the excess emissions. If, for example, the standard has a requirement for 98-percent control (*e.g.,* for new or reconstructed coating and printing affected sources under 40 CFR part 63, subpart OOOO), and the device is achieving only 96-percent, emissions are twice what they would be if the device was meeting the standard. This potential for significant increases in HAP from poor performing controls further supports the requirement to conduct periodic testing every 5 years.

4. What is the rational for our final approach?

For the reasons explained in the preamble to the proposed rules (83 FR 46262, September 12, 2018) and in the comment responses above in section IV.C.3 of this preamble, we are finalizing requirements in each of these three subparts to require add-on control performance testing no less frequently than once every 5 years.

D. Work Practice During Periods of Malfunction

1. What did we propose?

The EPA requested comment on the need to establish a standard during periods of malfunction of a control device or a capture system that is used to meet the emission limits for the

Printing, Coating, and Dyeing of Fabrics and Other Textiles source category and asked for specific information to support such a standard. We solicited information from industry on best practices and the best level of emission control during malfunction events for the Printing, Coating, and Dyeing of Fabrics and Other Textiles source category. We solicited information on the potential cost savings associated with these practices. We solicited specific supporting data on organic HAP emissions during malfunction events for this category, including the cause of malfunction, the frequency of malfunction, duration of malfunction, and the estimate of organic HAP emitted during each malfunction. We also asked specifically for comment on the use of CEMS by facilities in this source category as a method to better quantify organic HAP emissions during malfunctions and normal operation. We also requested comment on two alternative work practices: (1) During a malfunction, the facility must discontinue the coating operation, but can continue the oven curing of any coating materials already applied onto the web without the control device for the period of the malfunction so long as it continues to meet the emission limits for the current compliance period; or (2) during a malfunction, the facility could initiate repairs immediately and complete them as expeditiously as possible, without ceasing operations, until it becomes apparent that the repairs will not be completed before exceeding the 12-month rolling average compliance limit. Neither alternative provided an opportunity to exceed the emissions limit. (*See* section IV.B.4.b of the Surface Coating of Large Appliances; Printing, Coating, and Dyeing of Fabrics and Other Textiles; and Surface Coating of Metal Furniture Residual Risk and Technology Reviews, 83 FR 46295, September 12, 2018).

2. What changed since proposal?

The EPA is not providing a work practice standard for periods of malfunction of a control device or a capture system for the Printing, Coating, and Dyeing of Fabrics and Other Textiles source category in the final rule amendments.

3. What key comments did we receive and what are our responses?

Comment: One commenter supported the work practice standard that would apply during malfunctions of any control device or capture system used by a web coating line, described as alternative 1 in the proposal preamble, and requested that the EPA develop a malfunction alternative that balances the generation of waste (from inadequate drying; cured coatings in lines and guns; and generation of waste coatings) and/or worker safety with exceeding emission limits. However, the commenter did not provide any supporting data or information in response to the EPA's specific solicitation in the proposal preamble.

Another commenter did not support a work practice standard and noted that it was unlawful to add a malfunction exemption or set a so-called malfunction-based standard for any source category, including the Printing, Coating, and Dyeing of Fabrics and Other Textiles source category, because, among other arguments, emission standards must be ''continuous.'' A complete summary of the comments received on the EPA's proposal is included in the docket for this rulemaking.

Response: The EPA is not finalizing a separate standard for periods of malfunction, although the EPA may establish a standard for periods of malfunction if the available information supports a separate standard in the future. In this case, we requested comment and information to support the development of a work practice standard during periods of malfunction, but we did not receive sufficient information, including additional quantitative emissions data, on which to base a standard for periods of malfunction. Absent sufficient information, it is not reasonable at this time to establish a work practice standard for this source category. We will continue to review this issue to determine if any new data become available in the future.

4. What is the rational for our final approach?

We are not finalizing a separate standard for periods of malfunction for the Printing, Coating, and Dyeing of Fabrics and Other Textiles source category, because we did not receive sufficient information on which to base a standard for periods of malfunction.

V. Summary of Cost, Environmental, and Economic Impacts and Additional Analyses Conducted

A. What are the affected facilities?

We estimate that the 10 major sources subject to the Surface Coating of Large Appliances NESHAP, the 43 major sources subject to the Printing, Coating and Dyeing of Fabrics and Other Textiles NESHAP, and the 16 major sources subject to the Surface Coating of Metal Furniture NESHAP are operating in the United States and will be affected by these final rules.

B. What are the air quality impacts?

We are not establishing new emission limits and are not requiring additional controls; therefore, no air quality impacts are expected as a result of the final amendments to the rule. Requiring periodic performance testing has the potential to reduce excess emissions from sources using poorly performing add-on controls, even though facilities are required to be in compliance at all times.

The final amendments will have no effect on the energy needs of the affected facilities in any of the three source categories, and would, therefore, have no indirect or secondary air emissions impacts.

C. What are the cost impacts?

We estimate that each facility in the three source categories will experience costs as a result of these final amendments for reporting. Specifically, each facility will experience costs to read and understand the rule amendments. Costs associated with elimination of the SSM exemption were estimated as part of the reporting and recordkeeping costs and include time for re-evaluating previously developed SSM record systems. Costs associated with the requirement to electronically submit notifications and semi-annual compliance reports using CEDRI were estimated as part of the reporting and recordkeeping costs and include time for becoming familiar with CEDRI and the reporting template for semi-annual compliance reports. The recordkeeping and reporting costs are presented in section VI.C of this preamble.

We estimate that in the Printing, Coating, and Dyeing of Fabrics and Other Textiles source category, 13 facilities using 18 control devices may be affected by the final rule requirements to conduct control device performance testing no less frequently than every 5 years. It is also assumed that 5 percent of the tests will need to be repeated, so that 19 total performance tests will be required. The total annualized cost will be about $4,400 per control device, with additional tests of control devices at the same facility costing 25 percent less due to reduced travel costs. The total annualized cost is approximately $77,000 per year for the source category, including retests, with an additional $3,300 in reporting costs per test in the year in which the test occurs.

We estimate that no facilities in the Surface Coating of Large Appliances source category nor in the Surface

Coating of Metal Furniture source category will be affected by the final rule requirements to conduct control device performance testing no less frequently than every 5 years. Only one facility in those two categories is currently using add-on controls to comply, and it is already required to conduct performance tests as a condition of their operating permit.

For further information on the potential costs, *see* the memoranda titled *Estimated Costs/Impacts of the 40 CFR Part 63 Subparts NNNN, OOOO and RRRR Monitoring Reviews,* February 2018, in the Surface Coating of Large Appliances Docket, Printing, Coating, and Dyeing of Fabrics and Other Textiles Docket, and Surface Coating of Metal Furniture Docket.

D. What are the economic impacts?

For the final revisions to the NESHAP for the Surface Coating of Large Appliances, the total cost in 2019 is estimated to be $23,000 (in 2016 dollars) for the 10 affected entities and is expected to range from 0.000002 to 0.02 percent of annual sales revenue per affected entity. These costs are not expected to result in a significant market impact, regardless of whether they are passed on to the purchaser or absorbed by the firms.

For the final revisions to the NESHAP for the Printing, Coating, and Dyeing of Fabrics and Other Textiles, the total cost in 2019 is estimated to be $90,000 (in 2016 dollars) for the 43 affected entities. Thirteen facilities will also incur performance testing and additional reporting costs, which we assume will occur in 2021. The annualized cost of each performance test is approximately $4,400, with additional tests of control devices at the same facility costing 25 percent less due to reduced travel costs. The reporting cost for each test is approximately $3,100. The 2018 equivalent annualized value of the present value of the costs (in 2016 dollars) for the analysis period (2019–2025) is estimated to be approximately $72,000 annually when assuming a 3-percent discount rate and $75,000 annually when assuming a 7-percent discount rate. The estimated maximum cost faced by affected entities is expected to range from 0.00002 to 0.42 percent of annual sales revenue per ultimate owner of affected entities. These costs are not expected to result in a significant market impact, regardless of whether they are passed on to the purchaser or absorbed by the firms.

For the final revisions to the NESHAP for the Surface Coating of Metal Furniture, the total cost in 2019 is estimated to be $32,000 (in 2016 dollars) for the 16 affected entities and is expected to range from 0.00007 to 0.02 percent of annual sales revenue per ultimate owner of affected entities. These costs are not expected to result in a significant market impact, regardless of whether they are passed on to the purchaser or absorbed by the firms.

E. What are the benefits?

As stated in section V.B. of the September 12, 2018, RTR proposal (83 FR 46311), we were unable to quantify the specific emissions reductions associated with eliminating the SSM exemption. We also are unable to quantify potential environmental benefits as a result of adding the requirement to conduct periodic add-on control device performance tests (*e.g.,* reduced emissions of organic HAP during periods of non-compliance). However, any reduction in HAP emissions would be expected to provide health benefits in the form of improved air quality and less exposure to potentially harmful chemicals.

F. What analysis of environmental justice did we conduct?

Executive Order 12898 (59 FR 7629, February 16, 1994) establishes federal executive policy on environmental justice. Its main provision directs federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States.

To examine the potential for any environmental justice issues that might be associated with the source category, we performed a demographic analysis, which is an assessment of risks to individual demographic groups of the populations living within 5 kilometers (km) and within 50 km of the facilities. In the analysis, we evaluated the distribution of HAP-related cancer and noncancer risks from each source category across different demographic groups within the populations living near facilities.

1. Surface Coating of Large Appliances

The results of the demographic analysis for the Surface Coating of Large Appliances source category indicate that, for two of the 11 demographic groups, ''African American'' and ''Below the Poverty Level,'' the percentage of the population living within 5 kilometers (km) of facilities in the source category is greater than the corresponding national percentage for the same demographic groups. When examining the risk levels of those exposed to emissions from large appliance coating facilities, we find that no one is exposed to a cancer risk at or above 1-in-1 million or to a chronic noncancer hazard index (HI) greater than 1 based on actual emissions from the source category.

The methodology and the results of the demographic analysis are presented in a technical report titled *Risk and Technology Review—Analysis of Demographic Factors for Populations Living Near Surface Coating of Large Appliances Source Category Operations* in the Surface Coating of Large Appliances Docket.

2. Printing, Coating, and Dyeing of Fabrics and Other Textiles

The results of the demographic analysis for the Printing, Coating, and Dyeing of Fabrics and Other Textiles source category are summarized in Table 5 of this preamble. These results, for various demographic groups, are based on the estimated risks from actual emissions levels for the population living within 50 km of the facilities.

TABLE 5—PRINTING, COATING, AND DYEING OF FABRICS AND OTHER TEXTILES SOURCE CATEGORY DEMOGRAPHIC RISK ANALYSIS RESULTS

	Nationwide	Population with cancer risk at or above 1-in-1 million due to printing, coating, and dyeing of fabrics and other textiles	Population with chronic noncancer HI Above 1 due to printing, coating, and dyeing of fabrics and other textiles
Total Population	317,746,049	8,500	0
White and Minority by Percent			
White	62	54	0
Minority	38	46	0
Minority Detail by Percent			
African American	12	39	0
Native American	0.8	0.02	0
Hispanic	18	5	0
Other and Multiracial	7	2	0
Income by Percent			
Below Poverty Level	14	26	0
Above Poverty Level	86	74	0
Education by Percent			
Over 25 and without High School Diploma	14	21	0
Over 25 and with a High School Diploma	86	79	0

The results of the Printing, Coating, and Dyeing of Fabrics and Other Textiles source category demographic analysis indicate that emissions from the source category expose approximately 8,500 people to a cancer risk at or above 1-in-1 million and no one to a chronic noncancer HI greater than 1. The percentages of the at-risk population in the following specific demographic groups are higher than their respective nationwide percentages: ''African American,'' ''Over 25 Without a High School Diploma,'' and ''Below the Poverty Level.''

The methodology and the results of the demographic analysis are presented in a technical report, *Risk and Technology Review—Analysis of Demographic Factors for Populations Living Near Printing, Coating, and Dyeing of Fabrics and Other Textiles Source Category Operations,* available in the Printing, Coating, and Dyeing of Fabrics and Other Textiles Docket.

3. Surface Coating of Metal Furniture

The results of the demographic analysis for the Surface Coating of Metal Furniture source category are summarized in Table 6 below. These results, for various demographic groups, are based on the estimated risks from actual emissions levels for the population living within 50 km of the facilities.

TABLE 6—SURFACE COATING OF METAL FURNITURE SOURCE CATEGORY DEMOGRAPHIC RISK ANALYSIS RESULTS

	Nationwide	Population with cancer risk at or above 1-in-1 million due to surface coating of metal furniture source category	Population with chronic noncancer HI above 1 due to surface coating of metal furniture source category
Total Population	317,746,049	2,100	0
White and Minority by Percent			
White	62	62	0
Minority	38	38	0

TABLE 6—SURFACE COATING OF METAL FURNITURE SOURCE CATEGORY DEMOGRAPHIC RISK ANALYSIS RESULTS—Continued

	Nationwide	Population with cancer risk at or above 1-in-1 million due to surface coating of metal furniture source category	Population with chronic noncancer HI above 1 due to surface coating of metal furniture source category
Minority Detail by Percent			
African American	12	7	0
Native American	0.8	0	0
Hispanic	18	30	0
Other and Multiracial	7	2	.....
Income by Percent			
Below Poverty Level	14	23	0
Above Poverty Level	86	77	0
Education by Percent			
Over 25 and without High School Diploma	14	34	0
Over 25 and with a High School Diploma	86	66	0

The results of the Surface Coating of Metal Furniture source category demographic analysis indicate that emissions from the source category expose approximately 2,100 people to a cancer risk at or above 1-in-1 million and no one to a chronic noncancer HI greater than 1. The percentages of the at-risk population in the following specific demographic groups are higher than their respective nationwide percentages: ''Hispanic or Latino,'' ''Over 25 Without a High School Diploma,'' and ''Below the Poverty Level.''

The methodology and the results of the demographic analysis are presented in the technical report, Risk and Technology Review—*Analysis of Demographic Factors for Populations Living Near Surface Coating of Metal Furniture Source Category Operations,* available in the Surface Coating of Metal Furniture Docket.

G. What analysis of children's environmental health did we conduct?

This action is not subject to Executive Order 13045 because it is not economically significant as defined in Executive Order 12866, and because the EPA does not believe the environmental health or safety risks addressed by this action present a disproportionate risk to children. This action's health and risk assessments are summarized in section IV.A of this preamble and are further documented in the *Large Appliances Risk Assessment Report, Fabrics and Other Textiles Risk Assessment Report, and Metal Furniture Risk Assessment Report* in the Surface Coating of Large Appliances Docket, Printing, Coating, and Dyeing of Fabrics and Other Textiles Docket, and Surface Coating of Metal Furniture Docket, respectively.

VI. Statutory and Executive Order Reviews

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

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

This action is not a significant regulatory action and was, therefore, not submitted to the Office of Management and Budget (OMB) for review.

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

This action is not an Executive Order 13771 regulatory action because this action is not significant under Executive Order 12866.

C. Paperwork Reduction Act (PRA)

The information collection activities in each of these three subparts have been submitted for approval to OMB under the PRA.

1. Surface Coating of Large Appliances

The Information Collection Request (ICR) document that the EPA prepared has been assigned EPA ICR number 1954.08. You can find a copy of the ICR in the Surface Coating of Large Appliances Docket (Docket ID No. EPA–HQ–OAR–2017–0670), and it is briefly summarized here.

As part of the RTR for the Surface Coating of Large Appliances NESHAP, the EPA is not revising the emission limitation requirements for this subpart. The EPA has revised the SSM provisions of the rule and is requiring the use of electronic data reporting for future performance test data submittals and semi-annual reporting. This information would be collected to assure compliance with 40 CFR part 63, subpart NNNN. The EPA is finalizing a requirement to conduct control device performance testing no less frequently than once every 5 years for facilities using the emission rate with add-on controls compliance option, but this is not estimated to affect any facilities in this source category.

Respondents/affected entities: Facilities performing surface coating of large appliances.

Respondent's obligation to respond: Mandatory (40 CFR part 63, subpart NNNN).

Estimated number of respondents: In the 3 years after the amendments are final, approximately 10 respondents per year would be subject to the NESHAP and no additional respondents are expected to become subject to the NESHAP during that period.

Frequency of response: The total number of responses in year 1 is 30. Years 2 and 3 would have no responses.

Total estimated burden: The average annual burden to the large appliance facilities over the 3 years after the amendments are final is estimated to be 77 hours (per year). The average annual burden to the Agency over the 3 years after the amendments are final is estimated to be 15 hours (per year) for the Agency. Burden is defined at 5 CFR 1320.3(b).

*Total estimated cos*t: The average annual cost to the large appliance facilities is $7,700 in labor costs, in the first 3 years after the amendments are final. The total average annual Agency cost over the first 3 years after the amendments are final is estimated to be $700.

2. Printing, Coating, and Dyeing of Fabrics and Other Textiles

The ICR document that the EPA prepared has been assigned EPA ICR number 2071.08. You can find a copy of the ICR in the Printing, Coating, and Dyeing of Fabrics and Other Textiles Docket (Docket ID No. EPA–HQ–OAR–2017–0668), and it is briefly summarized here.

As part of the RTR for the Printing, Coating, and Dyeing of Fabrics and Other Textiles NESHAP, the EPA is not revising the emission limitation requirements for this subpart. The EPA has revised the SSM provisions of the rule and is requiring the use of electronic data reporting for future performance test data submittals and semiannual reports. This information is being collected to assure compliance with 40 CFR part 63, subpart OOOO. The EPA is finalizing a requirement to conduct control device performance testing no less frequently than once every 5 years for facilities using the emission rate with add-on controls compliance option.

Respondents/affected entities: Facilities performing printing, coating, and dyeing of fabrics and other textiles.

Respondent's obligation to respond: Mandatory (40 CFR part 63, subpart OOOO).

Estimated number of respondents: In the 3 years after the amendments are final, approximately 43 respondents per year will be subject to the NESHAP and no additional respondents are expected to become subject to the NESHAP during that period. The EPA estimates that 13 facilities will be required to conduct performance testing for 19 control devices in the 3 three years after the amendments are final.

Frequency of response: The total number of responses in year 1 is 129. Year 2 will have no responses. Year 3 will have 19 responses related to control device performance tests.

Total estimated burden: The average annual burden to the Printing, Coating, and Dyeing of Fabrics and Other Textiles coating facilities over the 3 years after amendments are finalized is estimated to be 548 hours (per year). The average annual burden to the Agency over the 3 years after the amendments are final is estimated to be 133 hours (per year) for the Agency. Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: The average annual cost to the Printing, Coating, and Dyeing of Fabrics and Other Textiles coating facilities is $50,000 in labor costs and $120,000 in capital and operation and maintenance costs in the first 3 years after the amendments are final. The average annual Agency cost over the first 3 years after the amendments are final is estimated to be $14,000.

3. Surface Coating of Metal Furniture

The ICR document that the EPA prepared has been assigned EPA ICR number 1952.08. You can find a copy of the ICR in the Surface Coating of Metal Furniture Docket (Docket ID No. EPA–HQ–OAR–2017–0669), and it is briefly summarized here.

As part of the RTR for the Surface Coating of Metal Furniture NESHAP, the EPA is not revising the emission limitations for this subpart. The EPA has revised the SSM provisions of the rule and is requiring the use of electronic data reporting for future performance test data submittals and semi-annual reporting. This information would be collected to assure compliance with 40 CFR part 63, subpart RRRR. The EPA is finalizing a requirement to conduct control device performance testing no less frequently than once every 5 years for facilities using the emission rate with add-on controls compliance option, but this is not estimated to affect any facilities in this source category.

Respondents/affected entities: Facilities performing surface coating of metal furniture.

Respondent's obligation to respond: Mandatory (40 CFR part 63, subpart RRRR).

Estimated number of respondents: In the 3 years after the amendments are final, approximately 16 respondents per year will be subject to the NESHAP and no additional respondents are expected to become subject to the NESHAP during that period.

Frequency of response: The total number of responses in year 1 is 48. Years 2 and 3 would have no responses.

Total estimated burden: The average annual burden to the large appliance facilities over the 3 years after the amendments are finalized is estimated to be 123 hours (per year). The average annual burden to the Agency over the 3 years after the amendments are final is estimated to be 25 hours (per year) for the Agency. Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: The average annual cost to the metal furniture facilities is $11,000 in labor costs in the first 3 years after the amendments are final. The total average annual Agency cost over the first 3 years after the amendments are final is estimated to be $1,200.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for the EPA's regulations in 40 CFR are listed in 40 CFR part 9.

D. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. This action will not impose any requirements on small entities. No facilities meeting the Small Business Administration's definition of a small business will face significant control costs, based on the economic impact analysis completed for this action. More information and details of this analysis is provided in the technical documents titled *Economic Impact and Small Business Screening Assessments for the National Emission Standards for Hazardous Air Pollutants for the Surface Coating of Large Appliances (Subpart NNNN), Economic Impact and Small Business Screening Assessments for the National Emission Standards for Hazardous Air Pollutants for the Printing, Coating, and Dyeing of Fabrics and Other Textiles (Subpart OOOO),* and *Economic Impact and Small Business Screening Assessments for the National Emission Standards for Hazardous Air Pollutants for the Surface Coating of Metal Furniture (Subpart RRRR),* available in the Surface Coating of Large Appliances Docket, Printing, Coating, and Dyeing of Fabrics and Other Textiles Docket, and Surface Coating of Metal Furniture Docket, respectively.

E. Unfunded Mandates Reform Act (UMRA)

This action does not contain an unfunded mandate of $100 million or more as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. The

action imposes no enforceable duty on any state, local, or tribal governments or the private sector.

F. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.

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

This action does not have tribal implications as specified in Executive Order 13175. No tribal facilities are known to be engaged in any of the industries that would be affected by this action (large appliances surface coating; printing, coating, and dyeing of fabrics and other textiles; surface coating of metal furniture). Thus, Executive Order 13175 does not apply to this action.

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

This action is not subject to Executive Order 13045 because it is not economically significant as defined in Executive Order 12866, and because the EPA does not believe the environmental health or safety risks addressed by this action present a disproportionate risk to children. This action's health and risk assessments are contained in sections IV.A of this preamble.

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

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

J. National Technology Transfer and Advancement Act (NTTAA) and 1 CFR Part 51

This action involves technical standards. The EPA amended the three NESHAP in this action to provide owners and operators with the option of conducting EPA Method 18 of appendix A to 40 CFR part 60, ''Measurement of Gaseous Organic Compound Emissions by Gas Chromatography,'' to measure and subtract methane emissions from measured total gaseous organic mass emissions as carbon.

For the Surface Coating of Metal Furniture NESHAP, the Printing, Coating, and Dyeing of Fabrics and Other Textiles NESHAP, and the Surface Coating of Large Appliances NESHAP, the EPA incorporates by reference ASTM D2369–10 (2015)[e], ''Test Method for Volatile Content of Coatings,'' which describes a procedure for the determination of the weight percent volatile content of solvent-borne and water-borne coatings, as an acceptable alternative to EPA Method 24, ''Determination of Volatile Matter Content, Water Content, Density, Volume Solids, and Weight Solids of Surface Coatings.''

For the Surface Coating of Large Appliances NESHAP, the EPA incorporates by reference ASTM D2111–10 (2015), ''Standard Test Methods for Specific Gravity of Halogenated Organic Solvents and Their Admixtures,'' These test methods cover the determination of the specific gravity of halogenated organic solvents and solvent admixtures. In addition. the EPA incorporates by reference ASTM D1475–13, ''Standard Test Method for Density of Liquid Coatings, Inks, and Related Products,'' which is already specified in 40 CFR part 63, subpart NNNN, and covers the measurement of density of paints, inks, varnishes, lacquers, and components thereof, other than pigments, when in fluid form.

We found three voluntary consensus standards already allowed in the Surface Coating of Large Appliances NESHAP and the Surface Coating of Metal Furniture NESHAP that have been replaced with newer versions of the methods. ASTM Dl475–13, ''Standard Test Method for Density of Liquid Coatings, Inks, and Related Products,'' has replaced ASTM D1475–90; ASTM D2697–03 (2014),''Standard Test Method for Volume Nonvolatile Matter in Clear or Pigmented Coatings,'' believed to be applicable to the determination of the volume of nonvolatile matter of a variety of coatings, has replaced ASTM D2697–86 (1998); and ASTM D6093–97 (2016), ''Standard Test Method for Percent Volume Nonvolatile Matter in Clear or Pigmented Coatings Using Helium Gas Pycnometer,'' which covers the determination of the percent volume nonvolatile matter of a variety of clear and pigmented coatings, has replaced ASTM D6093–97 (2003).

The ASTM standards are available from the American Society for Testing and Materials (ASTM), 100 Barr Harbor Drive, Post Office Box C700, West Conshohocken, PA 19428–2959. *See https://www.astm.org/.*

The EPA decided not to include certain other voluntary consensus standards; these methods are impractical as alternatives because of the lack of equivalency, documentation, validation date, and other important technical and policy considerations. The search and review results have been documented and are in the memoranda titled *Voluntary Consensus Standard Results for Surface Coating of Large Appliances,* March 2018, *Voluntary Consensus Standard Results for Printing, Coating, and Dyeing of Fabrics and Other Textiles,* March 2018, and *Voluntary Consensus Standard Results for Surface Coating of Metal Furniture,* March 2018, in the Surface Coating of Large Appliances Docket (Docket ID No. EPA–HQ–OAR–2017–0670), Printing, Coating, and Dyeing of Fabrics and Other Textiles Docket (Docket ID No. EPA–HQ–OAR–2017–0668), and Surface Coating of Metal Furniture Docket (Docket ID No. EPA–HQ–OAR–2017–0669), respectively, for the reasons for these determinations.

Under 40 CFR 63.7(f) and 40 CFR 63.8(f) of subpart A of the General Provisions, a source may apply to the EPA for permission to use alternative test methods or alternative monitoring requirements in place of any required testing methods, performance specifications, or procedures in the final rule or any amendments.

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

The EPA believes that these final actions do not have disproportionately high and adverse human health or environmental effects on minority populations, low-income populations, and/or indigenous peoples, as specified in Executive Order 12898 (59 FR 7629, February 16, 1994). This action increases the level of environmental protection for all affected populations. The results of this evaluation are contained in section IV.A of this preamble and the technical reports, *Risk and Technology Review—Analysis of Demographic Factors for Populations Living Near Printing, Coating, and Dyeing of Fabrics and Other Textiles Source Category Operations,* September 2017; *Risk and Technology Review—Analysis of Demographic Factors for Populations Living Near Surface Coating of Metal Furniture Source Category Operations,* October 2017; and *Risk and Technology Review—Analysis of Demographic Factors for Populations Living Near Surface Coating of Large Appliances Source Category Operations Demographic Analysis,* September 2017, which are available in the dockets for this action.

L. Congressional Review Act (CRA)

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

List of Subjects in 40 CFR Part 63

Environmental protection, Air pollution control, Appendix A, Hazardous substances, Incorporation by reference, Printing, coating, and dyeing of fabrics and other textiles, Reporting and recordkeeping requirements, Surface coating of large appliances, Surface coating of metal furniture.

Dated: December 20, 2018.

Andrew R. Wheeler,

Acting Administrator.

For the reasons stated in the preamble, part 63 of title 40, chapter I, of the Code of Federal Regulations is amended as follows:

PART 63—NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS FOR SOURCE CATEGORIES

■ 1. The authority citation for part 63 continues to read as follows:

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

Subpart A—General Provisions

■ 2. Section 63.14 is amended by:

■ a. Revising paragraphs (h)(13), (21), (26), (30), and (79).

■ b. Removing in paragraph (h)(78) the text ''63.4141, 63.4741(b), 63.4941(b),''.

The revisions read as follows:

§ 63.14 Incorporations by reference.

* * * * *

(h) * * *

(13) ASTM D1475–13, Standard Test Method for Density of Liquid Coatings, Inks, and Related Products, approved November 1, 2013, IBR approved for §§ 63.4141(b) and (c), 63.4741(b) and (c), 63.4751(c), and 63.4941(b) and (c).

* * * * *

(21) ASTM D2111–10 (Reapproved 2015), Standard Test Methods for Specific Gravity and Density of Halogenated Organic Solvents and Their Admixtures, approved June 1, 2015, IBR approved for §§ 63.4141(b) and (c) and 63.4741(a).

* * * * *

(26) ASTM D2369–10 (Reapproved 2015)[e], Standard Test Method for Volatile Content of Coatings, approved June 1, 2015, IBR approved for §§ 63.4141(a) and (b), 63.4161(h), 63.4321(e), 63.4341(e), 63.4351(d), 63.4741(a), 63.4941(a) and (b), and 63.4961(j).

* * * * *

(30) ASTM D2697–03 (Reapproved 2014), Standard Test Method for Volume Nonvolatile Matter in Clear or Pigmented Coatings, approved July 1, 2014, IBR approved for §§ 63.4141(b), 63.4741(a) and (b), and 63.4941(b).

* * * * *

(79) ASTM D6093–97 (Reapproved 2016), Standard Test Method for Percent Volume Nonvolatile Matter in Clear or Pigmented Coatings Using a Helium Gas Pycnometer, Approved December 1, 2016, IBR approved for §§ 63.4141(b), 63.4741(a) and (b), and 63.4941(b).

* * * * *

Subpart NNNN—National Emission Standards for Hazardous Air Pollutants: Surface Coating of Large Appliances

■ 3. Section 63.4100 is amended by revising paragraphs (b) and (d) to read as follows:

§ 63.4100 What are my general requirements for complying with this subpart?

* * * * *

(b) Before September 12, 2019, you must always operate and maintain your affected source, including all air pollution control and monitoring equipment you use for purposes of complying with this subpart, according to the provisions in § 63.6(e)(1)(i). On and after September 12, 2019, at all times, the owner or operator must operate and maintain any affected source, including associated air pollution control equipment and monitoring equipment, in a manner consistent with safety and good air pollution control practices for minimizing emissions. The general duty to minimize emissions does not require the owner or operator to make any further efforts to reduce emissions if levels required by the applicable standard have been achieved. Determination of whether a source is operating in compliance with operation and maintenance requirements will be based on information available to the Administrator that may include, but is not limited to, monitoring results, review of operation and maintenance procedures, review of operation and maintenance records, and inspection of the affected source.

* * * * *

(d) Before September 12, 2019, if your affected source uses an emission capture system and add-on control device, you must develop a written startup, shutdown, and malfunction plan according to the provisions in § 63.6(e)(3). The plan must address the startup, shutdown, and corrective actions in the event of a malfunction of the emission capture system or the add-on control device. The plan must also address any coating operation equipment that may cause increased emissions or that would affect capture efficiency if the process equipment malfunctions, such as conveyors that move parts among enclosures. A startup, shutdown, and malfunction plan is not required on and after September 12, 2019.

■ 4. Section 63.4110 is amended by revising paragraph (b)(9)(v) to read as follows:

§ 63. 4110 What notifications must I submit?

* * * * *

(b) * * *

(9) * * *

(v) Before September 12, 2019, a statement of whether or not you developed the startup, shutdown, and malfunction plan required by § 63.4100(d). This statement is not required on and after September 12, 2019.

* * * * *

■ 5. Section 63.4120 is amended by revising paragraphs (d), (e), (g), and (j) introductory text to read as follows:

§ 63.4120 What reports must I submit?

* * * * *

(d) If you use the compliant material option and there was a deviation from the applicable emission limit in § 63.4090, the semiannual compliance report must contain the information in paragraph (d)(1) or (2) of this section, as applicable.

(1) Before September 12, 2019, the information in paragraphs (d)(1)(i) through (iv) of this section.

(i) Identification of each coating used that deviated from the emission limit, each thinner and cleaning material used that contained organic HAP, and the dates and time periods each was used.

(ii) The determination of the organic HAP content, according to § 63.4141(d), for each coating identified in paragraph (d)(1)(i) of this section. You do not need to submit background data supporting this calculation, for example, information provided by coating suppliers or manufacturers or test reports.

(iii) The determination of mass fraction of organic HAP for each thinner and cleaning material identified in paragraph (d)(1)(i) of this section. You do not need to submit background data supporting this calculation, for example, information provided by material

suppliers or manufacturers or test reports.

(iv) A statement of the cause of each deviation.

(2) On and after September 12, 2019, if there was a deviation from the applicable emission limit in § 63.4090, the semiannual compliance report must contain the information in paragraphs (d)(2)(i) through (v) of this section.

(i) Identification of each coating used that deviated from the emission limit, each thinner and cleaning material used that contained organic HAP, and the date, time, and duration each was used.

(ii) The determination of the organic HAP content, according to § 63.4141(d), for each coating identified in paragraph (d)(2)(i) of this section. You do not need to submit background data supporting this calculation, for example, information provided by coating suppliers or manufacturers or test reports.

(iii) The determination of mass fraction of organic HAP for each thinner and cleaning material identified in paragraph (d)(2)(i) of this section. You do not need to submit background data supporting this calculation, for example, information provided by material suppliers or manufacturers or test reports.

(iv) A statement of the cause of each deviation (including unknown cause, if applicable).

(v) The number of deviations and, for each deviation, a list of the affected source or equipment, an estimate of the quantity of each regulated pollutant emitted over any emission limit in § 63.4090, and a description of the method used to estimate the emissions.

(e) If you use the emission rate without add-on controls option and there was a deviation from the applicable emission limitation in § 63.4090, the semiannual compliance report must contain the information in paragraph (e)(1) or (2), as applicable.

(1) Before September 12, 2019, the information in paragraphs (e)(1)(i) through (iii) of this section.

(i) The beginning and ending dates of each compliance period during which the organic HAP emission rate exceeded the emission limit.

(ii) The calculations used to determine the organic HAP emission rate for the compliance period in which the deviation occurred. You must provide the calculations for Equations 1, 1A through 1C, 2, and 3 in § 63.4151; and, if applicable, the calculation used to determine the organic HAP in waste materials according to § 63.4151(e)(4). You do not need to submit background data supporting these calculations, for example, information provided by materials suppliers or manufacturers or test reports.

(iii) A statement of the cause of each deviation.

(2) On and after September 12, 2019, if there was a deviation from the applicable emission limit in § 63.4090, the semiannual compliance report must contain the information in paragraphs (e)(2)(i) through (iv) of this section.

(i) The beginning and ending dates of each compliance period during which the organic HAP emission rate exceeded the emission limit.

(ii) The calculations used to determine the organic HAP emission rate for the compliance period in which the deviation occurred. You must provide the calculations for Equations 1, 1A through 1C, 2, and 3 in § 63.4151; and, if applicable, the calculation used to determine the organic HAP in waste materials according to § 63.4151(e)(4). You do not need to submit background data supporting these calculations, for example, information provided by materials suppliers or manufacturers or test reports.

(iii) A statement of the cause of each deviation (including unknown cause, if applicable).

(iv) The number of deviations, a list of the affected source or equipment, an estimate of the quantity of each regulated pollutant emitted over any emission limit in § 63.4090, and a description of the method used to estimate the emissions.

* * * * *

(g) If you use the emission rate with add-on controls option and there was a deviation from an emission limitation (including any periods when emissions bypassed the add-on control device and were diverted to the atmosphere), the semiannual compliance report must contain the information in paragraph (g)(1) or (2) of this section, as applicable.

(1) Before September 12, 2019, the information in paragraphs (g)(1)(i) through (xiv) of this section. This includes periods of startup, shutdown, and malfunction during which deviations occurred.

(i) The beginning and ending dates of each compliance period, during which the organic HAP emission rate exceeded the applicable emission limit in § 63.4090.

(ii) The calculations used to determine the organic HAP emission rate for each compliance period in which a deviation occurred. You must provide the calculation of the total mass of organic HAP emissions for the coatings, thinners, and cleaning materials used during the compliance period, using Equations 1, 1A through 1C, and 2 of § 63.4151 and, if applicable, the calculation used to determine the mass of organic HAP in waste materials according to § 63.4151(e)(4); the calculation of the total volume of coating solids used during the compliance period, using Equation 2 of § 63.4151; the calculation of the mass of organic HAP emission reduction during the compliance period by emission capture systems and add-on control devices, using Equations 1, 1A through 1C, 2, 3, and 3A through 3C of § 63.4161; and the calculation of the organic HAP emission rate, using Equation 4 of § 63.4161. You do not need to submit the background data supporting these calculations, for example, information provided by materials suppliers or manufacturers or test reports.

(iii) The date and time that each malfunction started and stopped.

(iv) A brief description of the CPMS.

(v) The date of the latest CPMS certification or audit.

(vi) The date and time that each CPMS was inoperative, except for zero (low-level) and high-level checks.

(vii) The date, time, and duration that each CPMS was out-of-control, including the information in § 63.8(c)(8).

(viii) The date and time period of each deviation from an operating limit in Table 1 to this subpart; date and time period of any bypass of the add-on control device; and whether each deviation occurred during a period of startup, shutdown, or malfunction or during another period.

(ix) A summary of the total duration of each deviation from an operating limit in Table 1 to this subpart and bypass of the add-on control device during the semiannual reporting period and the total duration as a percent of the total source operating time during that semiannual reporting period.

(x) A breakdown of the total duration of the deviations from the operating limits in Table 1 to this subpart and bypasses of the add-on control device during the semiannual reporting period into those that were due to startup, shutdown, control equipment problems, process problems, other known causes, and other unknown causes.

(xi) A summary of the total duration of CPMS downtime during the semiannual reporting period and the total duration of CPMS downtime as a percent of the total source operating time during that semiannual reporting period.

(xii) A description of any changes in the CPMS, coating operation, emission capture system, or add-on control

device since the last semiannual reporting period.

(xiii) For each deviation from the work practice standards, a description of the deviation, the date and time period of the deviation, and the actions you took to correct the deviation.

(xiv) A statement of the cause of each deviation.

(2) On and after September 12, 2019, the information in paragraphs (g)(2)(i) through (xii), (xiv), and (xv) of this section if there was a deviation from the applicable emission limit in § 63.4090 or the applicable operating limit(s) in Table 1 to this subpart (including any periods when emissions bypassed the add-on control device and were diverted to the atmosphere) and the information in paragraph (g)(2)(xiii) of this section if there was a deviation from the work practice standards in § 63.4093(b).

(i) The beginning and ending dates of each compliance period during which the organic HAP emission rate exceeded the applicable emission limit in § 63.4090.

(ii) The calculations used to determine the organic HAP emission rate for each compliance period in which a deviation occurred. You must provide the calculation of the total mass of organic HAP emissions for the coatings, thinners, and cleaning materials used during the compliance period, using Equations 1, 1A through 1C, and 2 of § 63.4151 and, if applicable, the calculation used to determine the mass of organic HAP in waste materials according to § 63.4151(e)(4); the calculation of the total volume of coating solids used during the compliance period, using Equation 2 of § 63.4151; the calculation of the mass of organic HAP emission reduction during the compliance period by emission capture systems and add-on control devices, using Equations 1, 1A through 1C, 2, 3, and 3A through 3C of § 63.4161; and the calculation of the organic HAP emission rate, using Equation 4 of § 63.4161. You do not need to submit the background data supporting these calculations, for example, information provided by materials suppliers or manufacturers or test reports.

(iii) The date and time that each malfunction of the capture system or add-on control devices started and stopped.

(iv) A brief description of the CPMS.

(v) The date of the latest CPMS certification or audit.

(vi) For each instance that the CPMS was inoperative, except for zero (low-level) and high-level checks, the date, time, and duration that the CPMS was inoperative; the cause (including unknown cause) for the CPMS being inoperative; and descriptions of corrective actions taken.

(vii) For each instance that the CPMS was out-of-control, as specified in § 63.8(c)(7), the date, time, and duration that the CPMS was out-of-control; the cause (including unknown cause) for the CPMS being out-of-control; and descriptions of corrective actions taken.

(viii) The date, time, and duration of each deviation from an operating limit in Table 1 to this subpart; and the date, time, and duration of any bypass of the add-on control device.

(ix) A summary of the total duration of each deviation from an operating limit in Table 1 to this subpart and bypass of the add-on control device during the semiannual reporting period and the total duration as a percent of the total source operating time during that semiannual reporting period.

(x) A breakdown of the total duration of the deviations from the operating limits in Table 1 to this subpart and bypasses of the add-on control device during the semiannual reporting period into those that were due to control equipment problems, process problems, other known causes, and other unknown causes.

(xi) A summary of the total duration of CPMS downtime during the semiannual reporting period and the total duration of CPMS downtime as a percent of the total source operating time during that semiannual reporting period.

(xii) A description of any changes in the CPMS, coating operation, emission capture system, or add-on control device since the last semiannual reporting period.

(xiii) For deviations from the work practice standards in § 63.4093(b), the number of deviations and, for each deviation:

(A) A description of the deviation; the date, time, and duration of the deviation; and the actions you took to minimize emissions in accordance with § 63.4100(b).

(B) The description required in paragraph (g)(2)(xiii)(A) of this section must include a list of the affected sources or equipment for which a deviation occurred and the cause of the deviation (including unknown cause, if applicable).

(xiv) For deviations from an emission limit in § 63.4090 or operating limit in Table 1 to this subpart, a statement of the cause of each deviation (including unknown cause, if applicable).

(xv) For each deviation from an emission limit in § 63.4090 or operating limit in Table 1 to this subpart, a list of the affected sources or equipment for which a deviation occurred, an estimate of the quantity of each regulated pollutant emitted over any emission limit in § 63.4090, and a description of the method used to estimate the emissions.

* * * * *

(j) Before September 12, 2019, if you use the emission rate with add-on controls option and you have a startup, shutdown, or malfunction during the semiannual reporting period, you must submit the reports specified in paragraphs (j)(1) and (2) of this section. The reports specified in paragraphs (j)(1) and (2) of this section are not required on and after September 12, 2019.

* * * * *

■ 6. Section 63.4121 is added to read as follows:

§ 63.4121 What are my electronic reporting requirements?

(a) Beginning no later than June 13, 2019, you must submit the results of the performance test required in § 63.4120(h) following the procedure specified in paragraphs (a)(1) through (3) of this section.

(1) For data collected using test methods supported by the EPA's Electronic Reporting Tool (ERT) as listed on the EPA's ERT website (*https://www.epa.gov/electronic-reporting-air-emissions/electronic-reporting-tool-ert*) at the time of the test, you must submit the results of the performance test to the EPA via the Compliance and Emissions Data Reporting Interface (CEDRI). The CEDRI interface can be accessed through the EPA's Central Data Exchange (CDX) (*https://cdx.epa.gov/*). Performance test data must be submitted in a file format generated through the use of the EPA's ERT or an alternate electronic file format consistent with the extensible markup language (XML) schema listed on the EPA's ERT website.

(2) For data collected using test methods that are not supported by the EPA's ERT as listed on the EPA's ERT website at the time of the test, you must submit the results of the performance test to the Administrator at the appropriate address listed in § 63.13, unless the Administrator agrees to or specifies an alternate reporting method.

(3) If you claim that some of the performance test information being submitted under paragraph (a)(1) of this section is confidential business information (CBI), you must submit a complete file generated through the use of the EPA's ERT or an alternate electronic file consistent with the XML schema listed on the EPA's ERT

website, including information claimed to be CBI, on a compact disc, flash drive or other commonly used electronic storage medium to the EPA. The electronic medium must be clearly marked as CBI and mailed to U.S. EPA/OAQPS/CORE CBI Office, Attention: Group Leader, Measurement Policy Group, MD C404–02, 4930 Old Page Rd., Durham, NC 27703. The same ERT or alternate file with the CBI omitted must be submitted to the EPA via the EPA's CDX as described in paragraph (a)(1) of this section.

(b) Beginning on March 15, 2021, the owner or operator shall submit the initial notifications required in § 63.9(b) and the notification of compliance status required in § 63.9(h) and § 63.4110(a)(2) and (b) to the EPA via CEDRI. The CEDRI can be accessed through the EPA's CDX (*https://cdx.epa.gov*). The owner or operator must upload to CEDRI an electronic copy of each applicable notification in portable document format (PDF). The applicable notification must be submitted by the deadline specified in this subpart, regardless of the method in which the reports are submitted. Owners or operators who claim that some of the information required to be submitted via CEDRI is CBI shall submit a complete report generated using the appropriate form in CEDRI or an alternate electronic file consistent with the XML schema listed on the EPA's CEDRI website, including information claimed to be CBI, on a compact disc, flash drive, or other commonly used electronic storage medium to the EPA. The electronic medium shall be clearly marked as CBI and mailed to U.S. EPA/OAQPS/CORE CBI Office, Attention: Group Leader, Measurement Policy Group, MD C404–02, 4930 Old Page Rd., Durham, NC 27703. The same file with the CBI omitted shall be submitted to the EPA via the EPA's CDX as described earlier in this paragraph.

(c) Beginning on March 15, 2021, or once the reporting template has been available on the CEDRI website for 1 year, whichever date is later, the owner or operator shall submit the semiannual compliance report required in § 63.4120 to the EPA via CEDRI. The CEDRI interface can be accessed through the EPA's CDX (*https://cdx.epa.gov*). The owner or operator must use the appropriate electronic template on the CEDRI website for this subpart or an alternate electronic file format consistent with the XML schema listed on the CEDRI website (*https://www.epa.gov/electronic-reporting-air-emissions/compliance-and-emissions-data-reporting-interface-cedri*). The date report templates become available will be listed on the CEDRI website. If the reporting form for the semiannual compliance report specific to this subpart is not available in CEDRI at the time that the report is due, you must submit the report to the Administrator at the appropriate addresses listed in § 63.13. Once the form has been available in CEDRI for 1 year, you must begin submitting all subsequent reports via CEDRI. The reports must be submitted by the deadlines specified in this subpart, regardless of the method in which the reports are submitted. Owners or operators who claim that some of the information required to be submitted via CEDRI is CBI shall submit a complete report generated using the appropriate form in CEDRI or an alternate electronic file consistent with XML schema listed on the EPA's CEDRI website, including information claimed to be CBI, on a compact disc, flash drive, or other commonly used electronic storage medium to the EPA. The electronic medium shall be clearly marked as CBI and mailed to U.S. EPA/OAQPS/CORE CBI Office, Attention: Group Leader, Measurement Policy Group, MD C404–02, 4930 Old Page Rd., Durham, NC 27703. The same file with the CBI omitted shall be submitted to the EPA via the EPA's CDX as described earlier in this paragraph.

(d) If you are required to electronically submit a report through CEDRI in the EPA's CDX, and due to a planned or actual outage of either the EPA's CEDRI or CDX systems within the period of time beginning 5 business days prior to the date that the submission is due, you will be or are precluded from accessing CEDRI or CDX and submitting a required report within the time prescribed, you may assert a claim of EPA system outage for failure to timely comply with the reporting requirement. You must submit notification to the Administrator in writing as soon as possible following the date you first knew, or through due diligence should have known, that the event may cause or caused a delay in reporting. You must provide to the Administrator a written description identifying the date, time and length of the outage; a rationale for attributing the delay in reporting beyond the regulatory deadline to the EPA system outage; describe the measures taken or to be taken to minimize the delay in reporting; and identify a date by which you propose to report, or if you have already met the reporting requirement at the time of the notification, the date you reported. In any circumstance, the report must be submitted electronically as soon as possible after the outage is resolved. The decision to accept the claim of EPA system outage and allow an extension to the reporting deadline is solely within the discretion of the Administrator.

(e) If you are required to electronically submit a report through CEDRI in the EPA's CDX and a force majeure event is about to occur, occurs, or has occurred or there are lingering effects from such an event within the period of time beginning 5 business days prior to the date the submission is due, the owner or operator may assert a claim of force majeure for failure to timely comply with the reporting requirement. For the purposes of this section, a force majeure event is defined as an event that will be or has been caused by circumstances beyond the control of the affected facility, its contractors, or any entity controlled by the affected facility that prevents you from complying with the requirement to submit a report electronically within the time period prescribed. Examples of such events are acts of nature (*e.g.,* hurricanes, earthquakes, or floods), acts of war or terrorism, or equipment failure or safety hazard beyond the control of the affected facility (*e.g.,* large scale power outage). If you intend to assert a claim of force majeure, you must submit notification to the Administrator in writing as soon as possible following the date you first knew, or through due diligence should have known, that the event may cause or caused a delay in reporting. You must provide to the Administrator a written description of the force majeure event and a rationale for attributing the delay in reporting beyond the regulatory deadline to the force majeure event; describe the measures taken or to be taken to minimize the delay in reporting; and identify a date by which you propose to report, or if you have already met the reporting requirement at the time of the notification, the date you reported. In any circumstance, the reporting must occur as soon as possible after the force majeure event occurs. The decision to accept the claim of force majeure and allow an extension to the reporting deadline is solely within the discretion of the Administrator.

■ 7. Section 63.4130 is amended by:

■ a. Revising paragraphs (f), (g), (j), (k) introductory text, and (k)(1) and (2); and

■ b. Redesignating paragraphs (k)(8) and (9) as paragraphs (k)(7) and (8), respectively.

The revisions read as follows:

§ 63.4130 What records must I keep?

* * * * *

(f) A record of the volume fraction of coating solids for each coating used

during each compliance period except for zero-HAP coatings for which volume solids determination is not required as allowed in § 63.4141.

(g) A record of the density for each coating used during each compliance period except for zero-HAP coatings for which volume solids determination is not required as allowed in § 63.4141 and, if you use either the emission rate without add-on controls or the emission rate with add-on controls compliance option, a record of the density for each thinner and cleaning material used during each compliance period.

* * * * *

(j) Before September 12, 2019, you must keep records of the date, time, and duration of each deviation. On and after September 12, 2019, for each deviation from an emission limitation reported under § 63.4120(d), (e), and (g), a record of the information specified in paragraphs (j)(1) through (4) of this section, as applicable.

(1) The date, time, and duration of the deviation, as reported under § 63.4120(d), (e), and (g).

(2) A list of the affected sources or equipment for which the deviation occurred and the cause of the deviation, as reported under § 63.4120(d), (e), and (g).

(3) An estimate of the quantity of each regulated pollutant emitted over any applicable emission limit in § 63.4090 or any applicable operating limit in Table 1 to this subpart, and a description of the method used to calculate the estimate, as reported under § 63.4120(d), (e), and (g).

(4) A record of actions taken to minimize emissions in accordance with § 63.4100(b) and any corrective actions taken to return the affected unit to its normal or usual manner of operation.

(k) If you use the emission rate with add-on controls option, you must also keep the records specified in paragraphs (k)(1) through (8) of this section.

(1) Before September 12, 2019, for each deviation, a record of whether the deviation occurred during a period of startup, shutdown, or malfunction. The record in this paragraph (k)(1) is not required on and after September 12, 2019.

(2) Before September 12, 2019, the records in § 63.6(e)(3)(iii) through (v) related to startup, shutdown, and malfunction. The records in this paragraph (k)(2) are not required on and after September 12, 2019.

* * * * *

■ 8. Section 63.4131 is amended by revising paragraph (a) to read as follows:

§ 63.4131 In what form and for how long must I keep my records?

(a) Your records must be in a form suitable and readily available for expeditious review, according to § 63.10(b)(1). Where appropriate, the records may be maintained as electronic spreadsheets or as a data base. Any records required to be maintained by this subpart that are in reports that were submitted electronically via the EPA's CEDRI may be maintained in electronic format. This ability to maintain electronic copies does not affect the requirement for facilities to make records, data, and reports available upon request to a delegated air agency or the EPA as part of an on-site compliance evaluation.

* * * * *

■ 9. Section 63.4141 is amended by revising paragraphs (a)(1)(i) and (ii), (a)(2) and (4), and (b)(1), the definitions of "$m_{volatiles}$" and "D_{avg}" in Equation 1 of paragraph (b)(3), and paragraph (c) to read as follows:

§ 63.4141 How do I demonstrate initial compliance with the emission limitations?

* * * * *

(a) * * *

(1) * * *

(i) Count each organic HAP in Table 5 to this subpart that is measured to be present at 0.1 percent by mass or more and at 1.0 percent by mass or more for other organic HAP compounds. For example, if toluene (not listed in Table 5 to this subpart) is measured to be 0.5 percent of the material by mass, you do not have to count it. Express the mass fraction of each organic HAP you count as a value truncated to four places after the decimal point (for example, 0.3791).

(ii) Calculate the total mass fraction of organic HAP in the test material by adding up the individual organic HAP mass fractions and truncating the result to three places after the decimal point (for example, 0.763).

(2) *Method 24 in appendix A–7 of part 60.* For coatings, you may use Method 24 to determine the mass fraction of nonaqueous volatile matter and use that value as a substitute for mass fraction of organic HAP. As an alternative to using Method 24, you may use ASTM D2369–10 (R2015), "Test Method for Volatile Content of Coatings" (incorporated by reference, *see* § 63.14).

* * * * *

(4) *Information from the supplier or manufacturer of the material.* You may rely on information other than that generated by the test methods specified in paragraphs (a)(1) through (3) of this section, such as manufacturer's formulation data if they represent each organic HAP in Table 5 to this subpart that is present at 0.1 percent by mass or more and at 1.0 percent by mass or more for other organic HAP compounds. For example, if toluene (not listed in Table 5 to this subpart) is 0.5 percent of the material by mass, you do not have to count it. If there is a disagreement between such information and results of a test conducted according to paragraphs (a)(1) through (3) of this section, then the test method results will take precedence.

* * * * *

(b) * * *

(1) *ASTM D2697–03 (R2014) or D6093–97 (R2016). You may* use ASTM D2697–03 (R2014), "Standard Test Method for Volume Nonvolatile Matter in Clear or Pigmented Coatings," or D6093–97 (R2016), "Standard Test Method for Percent Volume Nonvolatile Matter in Clear or Pigmented Coatings Using a Helium Gas Pycnometer" (incorporated by reference, *see* § 63.14) to determine the volume fraction of coating solids for each coating. Divide the nonvolatile volume percent obtained with the methods by 100 to calculate volume fraction of coating solids.

* * * * *

(3) * * *

$m_{volatiles}$ = total volatile matter content of the coating, including HAP, volatile organic compounds (VOC), water, and exempt compounds, determined according to Method 24 in appendix A–7 of part 60, or according to ASTM D2369–10 (R2015) Standard Test Method for Volatile Content of Coatings (incorporated by reference, *see* § 63.14), grams volatile matter per liter coating.

D_{avg} = average density of volatile matter in the coating, grams volatile matter per liter volatile matter, determined from test results using ASTM D1475–13, "Standard Test Method for Density of Liquid Coatings, Inks, and Related Products," ASTM D2111–10 (R2015), "Standard Test Methods for Specific Gravity of Halogenated Organic Solvents and Their Admixtures" (both incorporated by reference, *see* § 63.14); if you use this method, the specific gravity must be corrected to a standard temperature, information from the supplier or manufacturer of the material, or reference sources providing density or specific gravity data for pure materials. If there is disagreement between ASTM D1475–13 or ASTM D2111–10 (R2015) test results and other information sources, the test results will take precedence.

(c) *Determine the density of each coating.* Determine the density of each coating used during the compliance period from test results using ASTM D1475–13, "Standard Test Method for Density of Liquid Coatings, Inks, and Related Products, ASTM D2111–10

(R2015), ''Standard Test Methods for Specific Gravity of Halogenated Organic Solvents and Their Admixtures''(both incorporated by reference, *see* § 63.14); if you use this method, the specific gravity must be corrected to a standard temperature, information from the supplier or manufacturer of the material, or reference sources providing density or specific gravity data for pure materials. If there is disagreement between test results from ASTM D1475–13 or ASTM D2111–10 (R2015) and the supplier's or manufacturer's information, the test results will take precedence.

* * * * *

■ 10. Section 63.4142 is amended by revising paragraph (c) to read as follows:

§ 63.4142 How do I demonstrate continuous compliance with the emission limitations?

* * * * *

(c) As part of each semiannual compliance report required by § 63.4120, you must submit a statement that you were in compliance with the emission limitations during the reporting period because, during the compliance period, you used no thinners or cleaning materials that contained organic HAP, and you used no coatings for which the organic HAP content exceeded the applicable emission limit in § 63.4090.

* * * * *

■ 11. Section 63.4151 is amended by revising paragraph (h) to read as follows:

§ 63.4151 How do I demonstrate initial compliance with the emission limitations?

* * * * *

(h) The organic HAP emission rate for the initial compliance period must be less than or equal to the applicable emission limit in § 63.4090. You must keep all records as required by §§ 63.4130 and 63.4131. As part of the Notification of Compliance Status required by § 63.4110, you must identify the coating operation(s) for which you used the emission rate without add-on controls option and, if there were no deviations from the emission limitations, submit a statement that the coating operation(s) was (were) in compliance with the emission limitations during the initial compliance period because the organic HAP emission rate was less than or equal to the applicable emission limit in § 63.4090.

■ 12. Section 63.4152 is amended by revising paragraphs (a) and (c) to read as follows:

§ 63.4152 How do I demonstrate continuous compliance with the emission limitations?

(a) To demonstrate continuous compliance, for the compliance period, the organic HAP emission rate determined according to § 63.4151(a) through (g) must be less than or equal to the applicable emission limit in § 63.4090. Each month following the initial compliance period described in § 63.4150 is a compliance period.

* * * * *

(c) As part of each semiannual compliance report required by § 63.4120, if there were no deviations from the emission limitations, you must submit a statement that you were in compliance with the emission limitations during the reporting period because, during the compliance period, the organic HAP emission rate was less than or equal to the applicable emission limit in § 63.4090.

* * * * *

■ 13. Section 63.4160 is amended by revising the section heading and paragraphs (a)(1) and (b)(1) to read as follows:

§ 63.4160 By what date must I conduct initial performance tests and other initial compliance demonstrations?

(a) * * *

(1) All emission capture systems, add-on control devices, and CPMS you use to demonstrate compliance must be installed and operating no later than the applicable compliance date specified in § 63.4083. Except for solvent recovery systems for which you conduct liquid-liquid material balances according to § 63.4161(h), you must conduct a performance test of each capture system and add-on control device according to the procedures in §§ 63.4164, 63.4165, and 63.4166, and establish the operating limits required by § 63.4092 no later than the compliance date specified in § 63.4083. For a solvent recovery system for which you conduct liquid-liquid material balances according to § 63.4161(h), you must initiate the first material balance no later than the compliance date specified in § 63.4083.

* * * * *

(b) * * *

(1) All emission capture systems, add-on control devices, and CPMS you use to demonstrate compliance must be installed and operating no later than the applicable compliance date specified in § 63.4083. Except for solvent recovery systems for which you conduct liquid-liquid material balances according to § 63.4161(h), you must conduct a performance test of each capture system and add-on control device according to the procedures in §§ 63.4164, 63.4165, and 63.4166, and establish the operating limits required by § 63.4092 no later than 180 days after the applicable compliance date specified in § 63.4083. For a solvent recovery system for which you conduct liquid-liquid material balances according to § 63.4161(h), you must initiate the first material balance no later than 180 days after the applicable compliance date specified in § 63.4083.

* * * * *

■ 14. Section 63.4161 is amended by revising paragraphs (g) introductory text and (h)(3) to read as follows:

§ 63.4161 How do I demonstrate initial compliance?

* * * * *

(g) *Calculate the organic HAP emissions reduction for controlled coating operations not using liquid-liquid material balance.* For each controlled coating operation using an emission capture system and add-on control device other than a solvent recovery system for which you conduct liquid-liquid material balances, calculate organic HAP emissions reduction, using Equation 1 of this section, by applying the emission capture system efficiency and add-on control device efficiency to the mass of organic HAP contained in the coatings, thinners, and cleaning materials that are used in the coating operation served by the emission capture system and add-on control device during the compliance period. For any period of time a deviation specified in § 63.4163(c) or (d) occurs in the controlled coating operation, you must assume zero efficiency for the emission capture system and add-on control device. For the purposes of completing the compliance calculations, you must treat the materials used during a deviation on a controlled coating operation as if they were used on an uncontrolled coating operation for the time period of the deviation. You must not include those materials in the calculations of organic HAP emissions reduction in Equation 1 of this section.

$$H_c = (A_I + B_I + C_I)\left(\frac{CE}{100} \times \frac{DRE}{100}\right) \qquad (Eq.\ 1)$$

Where:

H_C = mass of organic HAP emissions reduction for the controlled coating operation during the compliance period, kg.

A_I = total mass of organic HAP in the coatings used in the controlled coating operation, kg, as calculated in Equation 1A of this section.

B_I = total mass of organic HAP in the thinners used in the controlled coating operation, kg, as calculated in Equation 1B of this section.

C_I = total mass of organic HAP in the cleaning materials used in the controlled coating operation during the compliance period, kg, as calculated in Equation 1C of this section.

CE = capture efficiency of the emission capture system vented to the add-on control device, percent. Use the test methods and procedures specified in §§ 63.4164 and 63.4165 to measure and record capture efficiency.

DRE = organic HAP destruction or removal efficiency of the add-on control device, percent. Use the test methods and procedures in §§ 63.4164 and 63.4166 to measure and record the organic HAP destruction or removal efficiency.

* * * * *

(h) * * *

(3) Determine the mass fraction of volatile organic matter for each coating used in the coating operation controlled by the solvent recovery system during the compliance period, kg volatile organic matter per kg coating. You may determine the volatile organic matter mass fraction using Method 24 in appendix A–7 of part 60, ASTM D2369–10 (R2015), ''Test Method for Volatile Content of Coatings'' (incorporated by reference, *see* § 63.14), or an EPA approved alternative method. Alternatively, you may use information provided by the manufacturer or supplier of the coating. In the event of any inconsistency between information provided by the manufacturer or supplier and the results of Method 24, ASTM D2369–10 (R2015), or an approved alternative method, the test method results will govern.

* * * * *

■ 15. Section 63.4163 is amended by revising the section heading and paragraph (c) introductory text, adding paragraph (c)(3), and revising paragraphs (e) and (h) to read as follows:

§ 63.4163 How do I conduct periodic performance tests and demonstrate continuous compliance with the emission limitations?

* * * * *

(c) You must demonstrate continuous compliance with each operating limit required by § 63.4092 that applies to you as specified in Table 1 to this subpart, and you must conduct periodic performance tests as specified in paragraph (c)(3) of this section.

* * * * *

(3) Except for solvent recovery systems for which you conduct liquid-liquid material balances according to § 63.4161(h), you must conduct according to the procedures in §§ 63.4164, 63.4165, and 63.4166 periodic performance tests of each capture system and add-on control device used to demonstrate compliance, and you must establish the operating limits required by § 63.4092. You must conduct the first periodic performance test and establish the operating limits required by § 63.4092 before March 15, 2022, unless you are already required to complete periodic performance tests as a requirement of renewing your facility's operating permit under 40 CFR part 70 or 40 CFR part 71 and have conducted a performance test on or after March 15, 2017. Thereafter you must conduct a performance test no later than 5 years following the previous performance test. Operating limits must be confirmed or reestablished during each performance test.

* * * * *

(e) You must demonstrate continuous compliance with the work practice standards in § 63.4093. If you did not develop a work practice plan, did not implement the plan, or did not keep the records required by § 63.4130(k)(8), this is a deviation from the work practice standards that must be reported as specified in §§ 63.4110(b)(6) and 63.4120(g).

* * * * *

(h) Before September 12, 2019, consistent with §§ 63.6(e) and 63.7(e)(1), deviations that occur during a period of startup, shutdown, or malfunction of the emission capture system, add-on control device, or coating operation that may affect emission capture or control device efficiency are not violations if you demonstrate to the Administrator's satisfaction that you were operating in accordance with § 63.6(e). The Administrator will determine whether deviations that occur during a period of startup, shutdown, or malfunction are violations according to the provisions in § 63.6(e). On and after September 12, 2019, as specified in § 63.4100(b), at all times, the owner or operator must operate and maintain any affected source, including associated air pollution control equipment and monitoring equipment, in a manner consistent with safety and good air pollution control practices for minimizing emissions, and determination of whether a source is operating in compliance with operation and maintenance requirements will be based on information available to the Administrator.

* * * * *

■ 16. Section 63.4164 is amended by revising paragraphs (a) introductory text and (a)(1) to read as follows:

§ 63.4164 What are the general requirements for performance tests?

(a) You must conduct each performance test required by § 63.4160 according to the requirements in this section unless you obtain a waiver of the performance test according to the provisions in § 63.7(h).

(1) *Representative coating operation operating conditions.* You must conduct the performance test under representative operating conditions for the coating operation. Operations during periods of startup, shutdown, or nonoperation do not constitute representative conditions for purposes of conducting a performance test. The owner or operator may not conduct performance tests during periods of malfunction. You must record the process information that is necessary to document operating conditions during the test and explain why the conditions represent normal operation. Upon request, you must make available to the Administrator such records as may be necessary to determine the conditions of performance tests.

* * * * *

■ 17. Section 63.4166 is amended by revising paragraphs (a)(1) through (4) and (b) introductory text to read as follows:

§ 63.4166 How do I determine the add-on control device emission destruction or removal efficiency?

(a) * * *

(1) Use Method 1 or 1A in appendix A–1 of part 60, as appropriate, to select sampling sites and velocity traverse points.

(2) Use Method 2, 2A, 2C, 2D, or 2F in appendix A–1, or Method 2G in appendix A–2, of part 60, as

appropriate, to measure gas volumetric flow rate.

(3) Use Method 3, 3A, or 3B in appendix A–2 of part 60, as appropriate, for gas analysis to determine dry molecular weight. You may also use as an alternative to Method 3B, the manual method for measuring the oxygen, carbon dioxide, and carbon monoxide content of exhaust gas in ANSI/ASME, PTC 19.10–1981, ''Flue and Exhaust Gas Analyses'' (incorporated by reference, *see* § 63.14).

(4) Use Method 4 in appendix A–3 of part 60 to determine stack gas moisture.

* * * * *

(b) Measure total gaseous organic mass emissions as carbon at the inlet and outlet of the add-on control device simultaneously, using either Method 25 or 25A in appendix A–7 of part 60, as specified in paragraphs (b)(1) through (3) of this section. You must use the same method for both the inlet and outlet measurements. You may use Method 18 in appendix A–6 of part 60 to subtract methane emissions from measured total gaseous organic mass emissions as carbon.

* * * * *

■ 18. Section 63.4167 is amended by revising the section heading, introductory text, and paragraph (f)(1) to read as follows:

§ 63.4167 How do I establish the emission capture system and add-on control device operating limits during performance tests?

During the performance tests required by §§ 63.4160 and 63.4163, and described in §§ 63.4164, 63.4165, and 63.4166, you must establish the operating limits required by § 63.4092 according to this section unless you have received approval for alternative monitoring and operating limits under § 63.8(f) as specified in § 63.4092.

* * * * *

(f) * * *

(1) During the capture efficiency determination required by §§ 63.4160 and 63.4163, and described in §§ 63.4164 and 63.4165, you must monitor and record either the gas volumetric flow rate or the duct static pressure for each separate capture device in your emission capture system at least once every 15 minutes during each of the three test runs at a point in the duct between the capture device and the add-on control device inlet.

* * * * *

■ 19. Section 63.4168 is amended by revising paragraphs (a)(4) and (5) and (c)(2) and (3) to read as follows:

§ 63.4168 What are the requirements for continuous parameter monitoring system installation, operation, and maintenance?

(a) * * *

(4) You must maintain the CPMS at all times in accordance with § 63.4100(b) and have readily available necessary parts for routine repairs of the monitoring equipment.

(5) Before September 12, 2019, you must operate the CPMS and collect emission capture system and add-on control device parameter data at all times that a controlled coating operation is operating except during monitoring malfunctions, associated repairs, and required quality assurance or control activities (including, if applicable, calibration checks and required zero and span adjustments). On and after September 12, 2019, you must operate the CPMS and collect emission capture system and add-on control device parameter data at all times in accordance with § 63.4100(b).

* * * * *

(c) * * *

(2) For a catalytic oxidizer, install a gas temperature monitor in the gas stream immediately before the catalyst bed, and if you establish operating limits according to § 63.4167(b)(1) and (2), also install a gas temperature monitor in the gas stream immediately after the catalyst bed.

(3) For each gas temperature monitoring device, you must comply with the requirements in paragraphs (c)(3)(i) through (vii) of this section. For the purposes of this paragraph (c)(3), a thermocouple is part of the temperature sensor.

* * * * *

■ 20. Section 63.4181 is amended by revising the definition of ''Deviation'' to read as follows:

§ 63.4181 What definitions apply to this subpart?

* * * * *

Deviation means:

(1) Before September 12, 2019, any instance in which an affected source subject to this subpart or an owner or operator of such a source:

(i) Fails to meet any requirement or obligation established by this subpart including but not limited to any emission limit, or operating limit, or work practice standard;

(ii) Fails to meet any term or condition that is adopted to implement an applicable requirement in this subpart and that is included in the operating permit for any affected source required to obtain such a permit; or

(iii) Fails to meet any emission limit, or operating limit, or work practice standard in this subpart during startup, shutdown, or malfunction regardless of whether or not such failure is permitted by this subpart; and

(2) On and after September 12, 2019, any instance in which an affected source subject to this subpart or an owner or operator of such a source:

(i) Fails to meet any requirement or obligation established by this subpart including but not limited to any emission limit, or operating limit, or work practice standard; or

(ii) Fails to meet any term or condition that is adopted to implement an applicable requirement in this subpart and that is included in the operating permit for any affected source required to obtain such a permit.

* * * * *

■ 21. Table 2 to subpart NNNN of part 63 is revised to read as follows:

TABLE 2 TO SUBPART NNNN OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART NNNN

[You must comply with the applicable General Provisions requirements according to the following table:]

Citation	Subject	Applicable to subpart NNNN	Explanation
§ 63.1(a)(1)–(12)	General Applicability	Yes.	
§ 63.1(b)(1)–(3)	Initial Applicability Determination	Yes	Applicability to subpart NNNN is also specified in § 63.4081.
§ 63.1(c)(1)	Applicability After Standard Established	Yes.	
§ 63.1(c)(2)–(3)	Applicability of Permit Program for Area Sources.	No	Area sources are not subject to subpart NNNN.
§ 63.1(c)(4)–(5)	Extensions and Notifications	Yes.	
§ 63.1(e)	Applicability of Permit Program Before Relevant Standard is Set.	Yes.	

TABLE 2 TO SUBPART NNNN OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART NNNN—Continued

[You must comply with the applicable General Provisions requirements according to the following table:]

Citation	Subject	Applicable to subpart NNNN	Explanation
§ 63.2	Definitions	Yes	Additional definitions are specified in § 63.4181.
§ 63.3(a)–(c)	Units and Abbreviations	Yes.	
§ 63.4(a)(1)–(5)	Prohibited Activities	Yes.	
§ 63.4(b)–(c)	Circumvention/Severability	Yes.	
§ 63.5(a)	Construction/Reconstruction	Yes.	
§ 63.5(b)(1)–(6)	Requirements for Existing, Newly Constructed, and Reconstructed Sources.	Yes.	
§ 63.5(d)	Application for Approval of Construction/Reconstruction.	Yes.	
§ 63.5(e)	Approval of Construction/Reconstruction	Yes.	
§ 63.5(f)	Approval of Construction/Reconstruction Based on Prior State Review.	Yes.	
§ 63.6(a)	Compliance With Standards and Maintenance Requirements—Applicability.	Yes.	
§ 63.6(b)(1)–(7)	Compliance Dates for New and Reconstructed Sources.	Yes	Section 63.4083 specifies the compliance dates.
§ 63.6(c)(1)–(5)	Compliance Dates for Existing Sources	Yes	Section 63.4083 specifies the compliance dates.
§ 63.6(e)(1)(i)	Operation and Maintenance	Yes, before September 12, 2019. No on and after September 12, 2019.	*See* § 63.4100(b) for general duty requirement.
§ 63.6(e)(1)(ii)	Operation and Maintenance	Yes, before September 12, 2019. No on and after September 12, 2019.	
§ 63.6(e)(1)(iii)	Operation and Maintenance	Yes.	
§ 63.6(e)(3)	Startup, shutdown, malfunction plan (SSMP).	Yes, before September 12, 2019. No on and after September 12, 2019.	
§ 63.6(f)(1)	Compliance Except During Startup, Shutdown, and Malfunction.	Yes, before September 12, 2019. No on and after September 12, 2019.	
§ 63.6(f)(2)–(3)	Methods for Determining Compliance	Yes.	
§ 63.6(g)(1)–(3)	Use of an Alternative Standard	Yes	
§ 63.6(h)	Compliance With Opacity/Visible Emission standards.	No	Subpart NNNN does not establish opacity standards and does not require continuous opacity monitoring systems (COMS).
§ 63.6(i)(1)–(16)	Extension of Compliance	Yes.	
§ 63.6(j)	Presidential Compliance Exemption	Yes.	
§ 63.7(a)(1)	Performance Test Requirements—Applicability.	Yes	Applies to all affected sources. Additional requirements for performance testing are specified in §§ 63.4164, 63.4165, and 63.4166.
§ 63.7(a)(2)	Performance Test Requirements—Dates	Yes	Applies only to performance tests for capture system and control device efficiency at sources using these to comply with the standards. Section 63.4160 specifies the schedule for performance test requirements that are earlier than those specified in § 63.7(a)(2).
§ 63.7(a)(3)	Performance Tests Required By the Administrator.	Yes.	
§ 63.7(b)–(d)	Performance Test Requirements—Notification, Quality Assurance Facilities Necessary for Safe Testing, Conditions During Test.	Yes	Applies only to performance tests for capture system and add-on control device efficiency at sources using these to comply with the standard.
§ 63.7(e)(1)	Conduct of performance tests	Yes, before September 12, 2019. No on and after September 12, 2019.	*See* § 63.4164(a)(1).
§ 63.7(e)(2)–(4)	Conduct of performance tests	Yes.	
§ 63.7(f)	Performance Test Requirements—Use of Alternative Test Method.	Yes	Applies to all test methods except those used to determine capture system efficiency.

TABLE 2 TO SUBPART NNNN OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART NNNN—Continued

[You must comply with the applicable general provisions requirements according to the following table:]

Citation	Subject	Applicable to subpart NNNN	Explanation
§ 63.7(g)–(h)	Performance Test Requirements—Data Analysis, Recordkeeping, Reporting, Waiver of Test.	Yes	Applies only to performance tests for capture system and add-on control device efficiency at sources using these to comply with the standard.
§ 63.8(a)(1)–(3)	Monitoring Requirements—Applicability	Yes	Applies only to monitoring of capture system and add-on control device efficiency at sources using these to comply with the standard. Additional requirements for monitoring are specified in § 63.4168.
§ 63.8(a)(4)	Additional Monitoring Requirements	No	Subpart NNNN does not have monitoring requirements for flares.
§ 63.8(b)	Conduct of Monitoring	Yes.	
§ 63.8(c)(1)	Continuous Monitoring Systems (CMS) Operation and Maintenance.	Yes, before September 12, 2019. No on and after September 12, 2019.	
§ 63.8(c)(2)–(3)	Continuous Monitoring Systems (CMS) Operation and Maintenance.	Yes	Applies only to monitoring of capture system and add-on control device efficiency at sources using these to comply with the standard. Additional requirements for CMS operations and maintenance are specified in § 63.4168.
§ 63.8(c)(4)	CMS	No	Section 63.4168 specifies the requirements for the operation of CMS for capture systems and add-on control devices at sources using these to comply.
§ 63.8(c)(5)	COMS	No	Subpart NNNN does not have opacity or visible emission standards.
§ 63.8(c)(6)	CMS Requirements	No	Section 63.4168 specifies the requirements for monitoring systems for capture systems and add-on control devices at sources using these to comply.
§ 63.8(c)(7)	CMS Out-of-Control Periods	Yes.	
§ 63.8(c)(8)	CMS Out-of-Control Periods and Reporting	No	Section 63.4120 requires reporting of CMS out-of-control periods.
§ 63.8(d)–(e)	Quality Control Program and CMS Performance Evaluation.	No	Subpart NNNN does not require the use of CEMS.
§ 63.8(f)(1)–(5)	Use of an Alternative Monitoring Method	Yes	
§ 63.8(f)(6)	Alternative to Relative Accuracy Test	No	Subpart NNNN does not require the use of CEMS.
§ 63.8(g)(1)–(5)	Data Reduction	No	Sections 63.4167 and 63.4168 specify monitoring data reduction.
§ 63.9(a)–(d)	Notification Requirements	Yes.	
§ 63.9(e)	Notification of Performance Test	Yes	Applies only to capture system and add-on control device performance tests at sources using these to comply with the standard.
§ 63.9(f)	Notification of Visible Emissions/Opacity Test.	No	Subpart NNNN does not have opacity or visible emission standards.
§ 63.9(g)(1)–(3)	Additional Notifications When Using CMS	No	Subpart NNNN does not require the use of CEMS.
§ 63.9(h)	Notification of Compliance Status	Yes	Section 63.4110 specifies the dates for submitting the notification of compliance status.
§ 63.9(i)	Adjustment of Submittal Deadlines	Yes.	
§ 63.9(j)	Change in Previous Information	Yes.	
§ 63.10(a)	Recordkeeping/Reporting—Applicability and General Information.	Yes.	
§ 63.10(b)(1)	General Recordkeeping Requirements	Yes	Additional requirements are specified in §§ 63.4130 and 63.4131.
§ 63.10(b)(2)(i)	Recordkeeping of Occurrence and Duration of Startups and Shutdowns.	Yes, before September 12, 2019. No on and after September 12, 2019.	*See* § 63.4130(j).
§ 63.10(b)(2)(ii)	Recordkeeping of Failures to Meet Standards.	Yes, before September 12, 2019. No on and after September 12, 2019.	*See* § 63.4130(j).

TABLE 2 TO SUBPART NNNN OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART NNNN—Continued

[You must comply with the applicable General Provisions requirements according to the following table:]

Citation	Subject	Applicable to subpart NNNN	Explanation
§ 63.10(b)(2)(iii)	Recordkeeping Relevant to Maintenance of Air Pollution Control and Monitoring Equipment.	Yes.	
§ 63.10(b)(2)(iv)–(v)	Actions Taken to Minimize Emissions During SSM.	Yes, before September 12, 2019. No, on and after September 12, 2019.	*See* § 63.4130(j)(4) for a record of actions taken to minimize emissions during a deviation from the standard.
§ 63.10(b)(2)(vi)	Records for CMS malfunctions	Yes, before September 12, 2019. No, on and after September 12, 2019.	*See* § 63.4130(j) for records of periods of deviation from the standard, including instances where a CMS is inoperative or out-of-control.
§ 63.10(b)(2)(vii)–(xi)	Records	Yes.	
§ 63.10(b)(2)(xii)	Records	Yes.	
§ 63.10(b)(2)(xiii)		No	Subpart NNNN does not require the use of CEMS.
§ 63.10(b)(2)(xiv)		Yes.	
§ 63.10(b)(3)	Recordkeeping Requirements for Applicability Determinations.	Yes.	
§ 63.10(c)(1)–(6)	Additional Recordkeeping Requirements for Sources with CMS.	Yes.	
§ 63.10(c)(7)–(8)	Additional Recordkeeping Requirements for Sources with CMS.	No	*See* § 63.4130(j)(1) for records of periods of deviation from the standard, including instances where a CMS is inoperative or out-of-control.
§ 63.10(c)(10)–(14)	Additional Recordkeeping Requirements for Sources with CMS.	Yes.	
§ 63.10(c)(15)	Records Regarding the SSMP	Yes, before September 12, 2019. No, on and after September 12, 2019.	
§ 63.10(d)(1)	General Reporting Requirements	Yes	Additional requirements are specified in § 63.4120.
§ 63.10(d)(2)	Report of Performance Test Results	Yes	Additional requirements are specified in § 63.4120(h).
§ 63.10(d)(3)	Reporting Opacity or Visible Emissions Observations.	No	Subpart NNNN does not require opacity or visible emissions observations.
§ 63.10(d)(4)	Progress Reports for Sources With Compliance Extensions.	Yes.	
§ 63.10(d)(5)	Startup, Shutdown, and Malfunction Reports.	Yes, before September 12, 2019. No, on and after September 12, 2019.	*See* § 63.4120(g).
§ 63.10(e)(1)–(2)	Additional CMS Reports	No	Subpart NNNN does not require the use of CEMS.
§ 63.10(e)(3)	Excess Emissions/CMS Performance Reports.	No	Section 63.4120(g) specifies the contents of periodic compliance reports.
§ 63.10(e)(4)	COMS Data Reports	No	Subpart NNNN does not specify requirements for opacity or COMS.
§ 63.10(f)	Recordkeeping/Reporting Waiver	Yes.	
§ 63.11	Control Device Requirements/Flares	No	Subpart NNNN does not specify use of flares for compliance.
§ 63.12	State Authority and Delegations	Yes.	
§ 63.13	Addresses	Yes.	
§ 63.14	Incorporation by Reference	Yes.	
§ 63.15	Availability of Information/Confidentiality	Yes.	

■ 22. Table 5 to subpart NNNN of part 63 is added to read as follows:

TABLE 5 TO SUBPART NNNN OF PART 63—LIST OF HAZARDOUS AIR POLLUTANTS THAT MUST BE COUNTED TOWARD TOTAL ORGANIC HAP CONTENT IF PRESENT AT 0.1 PERCENT OR MORE BY MASS

Chemical name	CAS No.
1,1,2,2-Tetrachloroethane	79–34–5
1,1,2-Trichloroethane	79–00–5
1,1-Dimethylhydrazine	57–14–7

TABLE 5 TO SUBPART NNNN OF PART 63—LIST OF HAZARDOUS AIR POLLUTANTS THAT MUST BE COUNTED TOWARD TOTAL ORGANIC HAP CONTENT IF PRESENT AT 0.1 PERCENT OR MORE BY MASS—Continued

Chemical name	CAS No.
1,2-Dibromo-3-chloropropane	96–12–8
1,2-Diphenylhydrazine	122–66–7
1,3-Butadiene	106–99–0
1,3-Dichloropropene	542–75–6
1,4-Dioxane	123–91–1
2,4,6-Trichlorophenol	88–06–2
2,4/2,6-Dinitrotoluene (mixture)	25321–14–6
2,4-Dinitrotoluene	121–14–2
2,4-Toluene diamine	95–80–7
2-Nitropropane	79–46–9
3,3′-Dichlorobenzidine	91–94–1
3,3′-Dimethoxybenzidine	119–90–4
3,3′-Dimethylbenzidine	119–93–7
4,4′-Methylene bis(2-chloroaniline)	101–14–4
Acetaldehyde	75–07–0
Acrylamide	79–06–1
Acrylonitrile	107–13–1
Allyl chloride	107–05–1
alpha-Hexachlorocyclohexane (a-HCH)	319–84–6
Aniline	62–53–3
Benzene	71–43–2
Benzidine	92–87–5
Benzotrichloride	98–07–7
Benzyl chloride	100–44–7
beta-Hexachlorocyclohexane (b-HCH)	319–85–7
Bis(2-ethylhexyl)phthalate	117–81–7
Bis(chloromethyl)ether	542–88–1
Bromoform	75–25–2
Captan	133–06–2
Carbon tetrachloride	56–23–5
Chlordane	57–74–9
Chlorobenzilate	510–15–6
Chloroform	67–66–3
Chloroprene	126–99–8
Cresols (mixed)	1319–77–3
DDE	3547–04–4
Dichloroethyl ether	111–44–4
Dichlorvos	62–73–7
Epichlorohydrin	106–89–8
Ethyl acrylate	140–88–5
Ethylene dibromide	106–93–4
Ethylene dichloride	107–06–2
Ethylene oxide	75–21–8
Ethylene thiourea	96–45–7
Ethylidene dichloride (1,1-Dichloroethane)	75–34–3
Formaldehyde	50–00–0
Heptachlor	76–44–8
Hexachlorobenzene	118–74–1
Hexachlorobutadiene	87–68–3
Hexachloroethane	67–72–1
Hydrazine	302–01–2
Isophorone	78–59–1
Lindane (hexachlorocyclohexane, all isomers)	58–89–9
m-Cresol	108–39–4
Methylene chloride	75–09–2
Naphthalene	91–20–3
Nitrobenzene	98–95–3
Nitrosodimethylamine	62–75–9
o-Cresol	95–48–7
o-Toluidine	95–53–4
Parathion	56–38–2
p-Cresol	106–44–5
p-Dichlorobenzene	106–46–7
Pentachloronitrobenzene	82–68–8
Pentachlorophenol	87–86–5
Propoxur	114–26–1
Propylene dichloride	78–87–5
Propylene oxide	75–56–9
Quinoline	91–22–5
Tetrachloroethene	127–18–4
Toxaphene	8001–35–2

TABLE 5 TO SUBPART NNNN OF PART 63—LIST OF HAZARDOUS AIR POLLUTANTS THAT MUST BE COUNTED TOWARD TOTAL ORGANIC HAP CONTENT IF PRESENT AT 0.1 PERCENT OR MORE BY MASS—Continued

Chemical name	CAS No.
Trichloroethylene	79–01–6
Trifluralin	1582–09–8
Vinyl bromide	593–60–2
Vinyl chloride	75–01–4
Vinylidene chloride	75–35–4

Subpart OOOO—National Emission Standards for Hazardous Air Pollutants: Printing, Coating, and Dyeing of Fabrics and Other Textiles

■ 23. Section 63.4300 is amended by revising paragraphs (a)(3)(i), (b), and (c) to read as follows:

§ 63.4300 What are my general requirements for complying with this subpart?

(a) * * *

(3) * * *

(i) Before September 12, 2019, the web coating/printing or dyeing/finishing operation(s) must be in compliance with the applicable emission limit in Table 1 to this subpart or minimize emissions at all times as required by § 63.6(e)(1). On and after September 12, 2019, the web coating/printing or dyeing/finishing operation(s) must be in compliance with the applicable emission limit in Table 1 to this subpart at all times.

* * * * *

(b) Before September 12, 2019, you must always operate and maintain your affected source, including air pollution control and monitoring equipment, according to the provisions in § 63.6(e)(1)(i). On and after September 12, 2019, at all times, the owner or operator must operate and maintain any affected source, including associated air pollution control equipment and monitoring equipment, in a manner consistent with safety and good air pollution control practices for minimizing emissions. The general duty to minimize emissions does not require the owner or operator to make any further efforts to reduce emissions if levels required by the applicable standard have been achieved. Determination of whether a source is operating in compliance with operation and maintenance requirements will be based on information available to the Administrator that may include, but is not limited to, monitoring results, review of operation and maintenance procedures, review of operation and maintenance records, and inspection of the affected source.

(c) Before September 12, 2019, if your affected source uses an emission capture system and add-on control device, you must develop a written startup, shutdown, and malfunction plan according to the provisions in § 63.6(e)(3). The plan must address the startup, shutdown, and corrective actions in the event of a malfunction of the emission capture system or the add-on control device. The plan must also address any web coating/printing or dyeing/finishing operation equipment such as conveyors that move the substrate among enclosures that may cause increased emissions or that would affect capture efficiency if the process equipment malfunctions. A startup, shutdown, and malfunction plan is not required on and after September 12, 2019.

■ 24. Section 63.4310 is amended by revising paragraphs (c)(9) introductory text and (c)(9)(iv) and adding paragraph (c)(9)(v) to read as follows:

§ 63.4310 What notifications must I submit?

* * * * *

(c) * * *

(9) For the emission rate with add-on controls option as specified in § 63.4291(a)(3) and (c)(3), the organic HAP overall control efficiency option as specified in § 63.4291(a)(4), and the oxidizer outlet organic HAP concentration option as specified in § 63.4291(a)(5), for each controlled web coating/printing or dyeing/finishing operation using an emission capture system and add-on control device other than a solvent recovery system for which you conduct liquid-liquid material balances according to § 63.4341(e)(5) or (f)(5) or § 63.4351(d)(5), you must include the information specified in paragraphs (c)(9)(i) through (v) of this section.

* * * * *

(iv) A statement of whether or not you developed and implemented the work practice plan required by § 63.4293.

(v) Before September 12, 2019, a statement of whether or not you developed the startup, shutdown, and malfunction plan required by § 63.4300(c). This statement is not required on and after September 12, 2019.

■ 25. Section 63.4311 is amended by:

■ a. Revising paragraphs (a)(5) and (6) and (a)(7) introductory text;

■ b. Redesignating paragraph (a)(7)(i) as (a)(7)(i)(A);

■ c. Adding new paragraph (a)(7)(i) introductory text;

■ d. Redesignating paragraph (a)(7)(ii) as (a)(7)(i)(B) and revising it;

■ e. Redesignating paragraphs (a)(7)(iii) through (xv) as (a)(7)(i)(C) through (O), respectively;

■ f. Adding new paragraph (a)(7)(ii).

■ g. Revising paragraphs (a)(8) introductory text, (a)(8)(i), and (c) introductory text; and

■ h. Adding paragraphs (d) through (h).

The revisions and additions read as follows:

§ 63.4311 What reports must I submit?

(a) * * *

(5) *Deviations: Compliant material option.* If you use the compliant material option, and there was a deviation from the applicable organic HAP content requirements in Table 1 to this subpart, the semiannual compliance report must contain the information in paragraph (a)(5)(i) or (ii) of this section, as applicable.

(i) Before September 12, 2019, the information in paragraph (a)(5)(i)(A) through (D) of this section.

(A) Identification of each coating, printing, slashing, dyeing or finishing material applied that deviated from the emission limit and each thinning or cleaning material applied in web coating/printing operations that contained organic HAP, and the dates and time periods each was applied.

(B) The calculation of the organic HAP content using Equation 1 of § 63.4321 for each coating or printing material identified in paragraph (a)(5)(i)(A) of this section. You do not need to submit background data supporting this calculation (*e.g.,* information provided by material suppliers or manufacturers, or test reports).

(C) The determination of mass fraction of organic HAP for each regulated material identified in

paragraph (a)(5)(i)(A) of this section. You do not need to submit background data supporting this calculation (*e.g.,* information provided by material suppliers or manufacturers, or test reports).

(D) A statement of the cause of each deviation.

(ii) On and after September 12, 2019, the information in paragraphs (a)(5)(ii)(A) through (E) of this section.

(A) Identification of each coating, printing, slashing, dyeing or finishing material applied that deviated from the emission limit and each thinning or cleaning material applied in web coating/printing operations that contained organic HAP, and the date, time, and duration each was applied.

(B) The calculation of the organic HAP content using Equation 1 of § 63.4321 for each coating or printing material identified in paragraph (a)(5)(ii)(A) of this section. You do not need to submit background data supporting this calculation (*e.g.,* information provided by material suppliers or manufacturers, or test reports).

(C) The determination of mass fraction of organic HAP for each regulated material identified in paragraph (a)(5)(ii)(A) of this section. You do not need to submit background data supporting this calculation (*e.g.,* information provided by material suppliers or manufacturers, or test reports).

(D) A statement of the cause of each deviation (including unknown cause, if applicable).

(E) The number of deviations and, for each deviation, a list of the affected source or equipment, an estimate of the quantity of each regulated pollutant emitted over any emission limit in Table 1 to this subpart, and a description of the method used to estimate the emissions.

(6) *Deviations: Emission rate without add-on controls option.* If you use the emission rate without add-on controls option and there was a deviation from the applicable emission limit in Table 1 to this subpart, the semiannual compliance report must contain the information in paragraph (a)(6)(i) or (ii) of this section, as applicable.

(i) Before September 12, 2019, the information in paragraphs (a)(6)(i)(A) through (C) of this section.

(A) The beginning and ending dates of each compliance period during which the organic HAP emission rate exceeded the applicable emission limit in Table 1 to this subpart.

(B) The calculations used to determine the organic HAP emission rate for the compliance period in which the deviation occurred. You must submit the calculations for Equations 1, 1A and 1B, 2, and 3 in § 63.4331 for web coating/printing operations; and for Equations 4, 4A, 5, and 6 in § 63.4331 for dyeing/finishing operations; and if applicable, the calculation used to determine mass of organic HAP in waste materials according to § 63.4331(a)(4)(iii) or (b)(3)(ii); and, for dyeing/finishing operations, if applicable, the mass of organic HAP in wastewater streams calculation for Equation 7 in § 63.4331. You do not need to submit background data supporting these calculations (*e.g.,* information provided by materials suppliers or manufacturers, or test reports).

(C) A statement of the cause of each deviation.

(ii) On and after September 12, 2019, the information in paragraphs (a)(6)(ii)(A) through (D) of this section.

(A) The beginning and ending dates of each compliance period, during which the organic HAP emission rate exceeded the applicable emission limit in Table 1 to this subpart.

(B) The calculations used to determine the organic HAP emission rate for the compliance period in which the deviation occurred. You must submit the calculations for Equations 1, 1A and 1B, 2, and 3 in § 63.4331 for web coating/printing operations; and for Equations 4, 4A, 5, and 6 in § 63.4331 for dyeing/finishing operations; and if applicable, the calculation used to determine mass of organic HAP in waste materials according to § 63.4331(a)(4)(iii) or (b)(3)(ii); and, for dyeing/finishing operations, if applicable, the mass of organic HAP in wastewater streams calculation for Equation 7 in § 63.4331. You do not need to submit background data supporting these calculations (*e.g.,* information provided by materials suppliers or manufacturers, or test reports).

(C) A statement of the cause of each deviation (including unknown cause, if applicable).

(D) The number of deviations, a list of the affected source or equipment, an estimate of the quantity of each regulated pollutant emitted over any emission limit in Table 1 to this subpart, and a description of the method used to estimate the emissions.

(7) *Deviations: Add-on controls options.* If you use one of the add-on controls options in § 63.4291(a) or (c) and there was a deviation from an emission limitation (including any periods when emissions bypassed the add-on control device and were diverted to the atmosphere), the semiannual compliance report must contain the information in paragraph (a)(7)(i) or (ii) of this section, as applicable.

(i) Before September 12, 2019, the information in paragraphs (a)(7)(i)(A) through (O) of this section. This includes periods of startup, shutdown, and malfunction during which deviations occurred.

* * * * *

(B) If you use the emission rate option, the calculations used to determine the organic HAP emission rate for each compliance period in which a deviation occurred. You must submit the calculations that apply to you, including Equations 1, 1A, 1B, and 2 of § 63.4331 and Equations 1, 1A, 1B, 1C, 2, 3, 3A and 3B and 4 of § 63.4341 for web coating/printing operations; and Equations 4, 4A, 5, 6, and 7 of § 63.4331 and Equations 5, 5A, 5B, 6, 7, and 8 of § 63.4341 for dyeing/finishing operations. You do not need to submit the background data supporting these calculations (*e.g.,* information provided by materials suppliers or manufacturers, or test reports).

* * * * *

(ii) On and after September 12, 2019, the information in paragraphs (a)(7)(ii)(A) through (M), (O), and (P) of this section if there was a deviation from the applicable emission limit in Table 1 to this subpart or the applicable operating limit(s) in Table 2 to this subpart (including any periods when emissions bypassed the add-on control device and were diverted to the atmosphere), and the information in paragraph (a)(7)(ii)(N) of this section if there was a deviation from the applicable work practice standards in § 63.4293(b).

(A) The beginning and ending dates of each compliance period during which the organic HAP emission rate exceeded the applicable emission limit in Table 1 to this subpart.

(B) If you use the emission rate option, the calculations used to determine the organic HAP emission rate for each compliance period in which a deviation occurred. You must submit the calculations that apply to you, including Equations 1, 1A, 1B, and 2 of § 63.4331 and Equations 1, 1A, 1B, 1C, 2, 3, 3A and 3B and 4 of § 63.4341 for web coating/printing operations; and Equations 4, 4A, 5, 6, and 7 of § 63.4331 and Equations 5, 5A, 5B, 6, 7, and 8 of § 63.4341 for dyeing/finishing operations. You do not need to submit the background data supporting these calculations (*e.g.,* information provided by materials suppliers or manufacturers, or test reports).

(C) If you use the organic HAP overall control efficiency option, the calculations used to determine the organic HAP overall control efficiency for each compliance period in which a deviation occurred. You must submit the calculations that apply to you, including Equations 1, 1A, and 1B of § 63.4331; Equations 1, 1A, 1B, 1C, 2, 3, 3A, and 3B of § 63.4341; and Equation 1 of § 63.4351. You do not need to submit the background data supporting these calculations (*e.g.,* test reports).

(D) The date and time that each malfunction of the capture system or add-on control devices started and stopped.

(E) A brief description of the CPMS.

(F) The date of the latest CPMS certification or audit.

(G) For each instance that the CPMS was inoperative, except for zero (low-level) and high-level checks, the date, time, and duration that the CPMS was inoperative; the cause (including unknown cause) for the CPMS being inoperative; and descriptions of corrective actions taken.

(H) For each instance that the CPMS was out-of-control, as specified in § 63.8(c)(7), the date, time, and duration that the CPMS was out-of-control; the cause (including unknown cause) for the CPMS being out-of-control; and descriptions of corrective actions taken.

(I) The date, time, and duration of each deviation from an operating limit in Table 2 to this subpart, and the date, time, and duration of any bypass of the add-on control device.

(J) A summary of the total duration of each deviation from an operating limit in Table 2 to this subpart and each bypass of the add-on control device during the semiannual reporting period and the total duration as a percent of the total source operating time during that semiannual reporting period.

(K) A breakdown of the total duration of the deviations from the operating limits in Table 2 to this subpart and bypasses of the add-on control device during the semiannual reporting period into those that were due to control equipment problems, process problems, other known causes, and other unknown causes.

(L) A summary of the total duration of CPMS downtime during the semiannual reporting period and the total duration of CPMS downtime as a percent of the total source operating time during that semiannual reporting period.

(M) A description of any changes in the CPMS, web coating/printing or dyeing/finishing operation, emission capture system, or add-on control device since the last semiannual reporting period.

(N) For deviations from the work practice standards, the number of deviations, and, for each deviation, a description of the deviation; the date, time, and duration of the deviation; and the actions you took to minimize emissions in accordance with § 63.4300(b). The description of the deviation must include a list of the affected sources or equipment for which the deviation occurred and the cause of the deviation (including unknown cause, if applicable).

(O) For deviations from an emission limit in Table 1 to this subpart or operating limit in Table 2 to this subpart, a statement of the cause of each deviation (including unknown cause, if applicable).

(P) For each deviation from an emission limit in Table 1 to this subpart or operating limit in Table 2 to this subpart, a list of the affected sources or equipment for which a deviation occurred, an estimate of the quantity of each regulated pollutant emitted over any emission limit in Table 1 to this subpart, and a description of the method used to estimate the emissions.

(8) *Deviations: Equivalent Emission Rate Option.* If you use the equivalent emission rate option, and there was a deviation from the operating scenarios, as defined in § 63.4371, used to demonstrate initial compliance, the semiannual compliance report must contain the information in paragraphs (a)(8)(i) through (iv) of this section.

(i) Before September 12, 2019, the beginning and ending dates of each compliance period during which the deviation occurred. On and after September 12, 2019, the beginning and ending dates of each compliance period during which the deviation occurred, the number of deviations during the compliance period, and, for each deviation, the date, time, and duration of the deviation; a list of the affected sources or equipment; and a statement of the cause of the deviation (including an unknown cause, if applicable).

* * * * *

(c) Before September 12, 2019, if you use one of the add-on control options in § 63.4291(a) or (c) and you have a startup, shutdown, or malfunction during the semiannual reporting period, you must submit the reports specified in paragraphs (c)(1) and (2) of this section. The reports specified in paragraphs (c)(1) and (2) of this section are not required on and after September 12, 2019.

* * * * *

(d) Beginning no later than June 13, 2019, you must submit the results of the performance test required in paragraph (b) of this section following the procedure specified in paragraphs (d)(1) through (3) of this section.

(1) For data collected using test methods supported by the EPA's Electronic Reporting Tool (ERT) as listed on the EPA's ERT website (*https://www.epa.gov/electronic-reporting-air-emissions/electronic-reporting-tool-ert*) at the time of the test, you must submit the results of the performance test to the EPA via the Compliance and Emissions Data Reporting Interface (CEDRI). The CEDRI interface can be accessed through the EPA's Central Data Exchange (CDX) (*https://cdx.epa.gov/*). Performance test data must be submitted in a file format generated through the use of the EPA's ERT or an alternate electronic file format consistent with the extensible markup language (XML) schema listed on the EPA's ERT website.

(2) For data collected using test methods that are not supported by the EPA's ERT as listed on the EPA's ERT website at the time of the test, you must submit the results of the performance test to the Administrator at the appropriate address listed in § 63.13, unless the Administrator agrees to or specifies an alternate reporting method.

(3) If you claim that some of the performance test information being submitted under paragraph (d)(1) of this section is confidential business information (CBI), you must submit a complete file generated through the use of the EPA's ERT or an alternate electronic file consistent with the XML schema listed on the EPA's ERT website, including information claimed to be CBI, on a compact disc, flash drive, or other commonly used electronic storage medium to the EPA. The electronic medium must be clearly marked as CBI and mailed to U.S. EPA/OAPQS/CORE CBI Office, Attention: Group Leader, Measurement Policy Group, MD C404–02, 4930 Old Page Rd., Durham, NC 27703. The same ERT or alternate file with the CBI omitted must be submitted to the EPA via the EPA's CDX as described in paragraph (d)(1) of this section.

(e) Beginning on March 15, 2021, the owner or operator shall submit the initial notifications required in § 63.9(b) and the notification of compliance status required in § 63.9(h) and § 63.4310(c) to the EPA via CEDRI. The CEDRI interface can be accessed through the EPA's CDX (*https://cdx.epa.gov*). The owner or operator must upload to CEDRI an electronic copy of each applicable notification in portable document format (PDF). The applicable notification must be submitted by the deadline specified in this subpart,

regardless of the method in which the reports are submitted. Owners or operators who claim that some of the information required to be submitted via CEDRI is CBI shall submit a complete report generated using the appropriate form in CEDRI or an alternate electronic file consistent with the extensible markup language (XML) schema listed on the EPA's CEDRI website, including information claimed to be CBI, on a compact disc, flash drive, or other commonly used electronic storage medium to the EPA. The electronic medium shall be clearly marked as CBI and mailed to U.S. EPA/OAQPS/CORE CBI Office, Attention: Group Leader, Measurement Policy Group, MD C404–02, 4930 Old Page Rd., Durham, NC 27703. The same file with the CBI omitted shall be submitted to the EPA via the EPA's CDX as described earlier in this paragraph.

(f) Beginning on March 15, 2021, or once the reporting template has been available on the CEDRI website for 1 year, whichever date is later, the owner or operator shall submit the semiannual compliance report required in paragraph (a) of this section to the EPA via CEDRI. The CEDRI interface can be accessed through the EPA's CDX (*https://cdx.epa.gov*). The owner or operator must use the appropriate electronic template on the CEDRI website for this subpart or an alternate electronic file format consistent with the XML schema listed on the CEDRI website (*https://www.epa.gov/electronic-reporting-air-emissions/compliance-and-emissions-data-reporting-interface-cedri*). The date report templates become available will be listed on the CEDRI website. If the reporting form for the semiannual compliance report specific to this subpart is not available in CEDRI at the time that the report is due, you must submit the report to the Administrator at the appropriate addresses listed in § 63.13. Once the form has been available in CEDRI for 1 year, you must begin submitting all subsequent reports via CEDRI. The reports must be submitted by the deadlines specified in this subpart, regardless of the method in which the reports are submitted. Owners or operators who claim that some of the information required to be submitted via CEDRI is CBI shall submit a complete report generated using the appropriate form in CEDRI or an alternate electronic file consistent with the XML schema listed on the EPA's CEDRI website, including information claimed to be CBI, on a compact disc, flash drive, or other commonly used electronic storage medium to the EPA. The electronic medium shall be clearly marked as CBI and mailed to U.S. EPA/OAQPS/CORE CBI Office, Attention: Group Leader, Measurement Policy Group, MD C404–02, 4930 Old Page Rd., Durham, NC 27703. The same file with the CBI omitted shall be submitted to the EPA via the EPA's CDX as described earlier in this paragraph.

(g) If you are required to electronically submit a report through CEDRI in the EPA's CDX, and due to a planned or actual outage of either the EPA's CEDRI or CDX systems within the period of time beginning 5 business days prior to the date that the submission is due, you will be or are precluded from accessing CEDRI or CDX and submitting a required report within the time prescribed, you may assert a claim of EPA system outage for failure to timely comply with the reporting requirement. You must submit notification to the Administrator in writing as soon as possible following the date you first knew, or through due diligence should have known, that the event may cause or caused a delay in reporting. You must provide to the Administrator a written description identifying the date, time and length of the outage; a rationale for attributing the delay in reporting beyond the regulatory deadline to the EPA system outage; describe the measures taken or to be taken to minimize the delay in reporting; and identify a date by which you propose to report, or if you have already met the reporting requirement at the time of the notification, the date you reported. In any circumstance, the report must be submitted electronically as soon as possible after the outage is resolved. The decision to accept the claim of EPA system outage and allow an extension to the reporting deadline is solely within the discretion of the Administrator.

(h) If you are required to electronically submit a report through CEDRI in the EPA's CDX and a force majeure event is about to occur, occurs, or has occurred or there are lingering effects from such an event within the period of time beginning 5 business days prior to the date the submission is due, the owner or operator may assert a claim of force majeure for failure to timely comply with the reporting requirement. For the purposes of this section, a force majeure event is defined as an event that will be or has been caused by circumstances beyond the control of the affected facility, its contractors, or any entity controlled by the affected facility that prevents you from complying with the requirement to submit a report electronically within the time period prescribed. Examples of such events are acts of nature *(e.g.,* hurricanes, earthquakes, or floods), acts of war or terrorism, or equipment failure or safety hazard beyond the control of the affected facility (*e.g.,* large scale power outage). If you intend to assert a claim of force majeure, you must submit notification to the Administrator in writing as soon as possible following the date you first knew, or through due diligence should have known, that the event may cause or caused a delay in reporting. You must provide to the Administrator a written description of the force majeure event and a rationale for attributing the delay in reporting beyond the regulatory deadline to the force majeure event; describe the measures taken or to be taken to minimize the delay in reporting; and identify a date by which you propose to report, or if you have already met the reporting requirement at the time of the notification, the date you reported. In any circumstance, the reporting must occur as soon as possible after the force majeure event occurs. The decision to accept the claim of force majeure and allow an extension to the reporting deadline is solely within the discretion of the Administrator.

■ 26. Section 63.4312 is amended by revising paragraphs (i), (j) introductory text, and (j)(1) and (2) to read as follows:

§ 63.4312 What records must I keep?

* * * * *

(i) Before September 12, 2019, you must keep records of the date, time, and duration of each deviation. On and after September 12, 2019, for each deviation from an emission limitation reported under § 63.4311(a)(5) through (8), a record of the information specified in paragraphs (i)(1) through (4) of this section, as applicable.

(1) The date, time, and duration of the deviation, as reported under § 63.4311(a)(5) through (8).

(2) A list of the affected sources or equipment for which the deviation occurred and the cause of the deviation, as reported under § 63.4311(a)(5) through (8).

(3) An estimate of the quantity of each regulated pollutant emitted over any applicable emission limit in Table 1 to this subpart or any applicable operating limit in Table 2 to this subpart, and a description of the method used to calculate the estimate, as reported under § 63.4311(a)(5) through (8). If you use the equivalent emission rate option to comply with this subpart, a record of the applicable information specified in § 63.4311(a)(8)(ii) through (iv) satisfies the recordkeeping requirement in this paragraph (i)(3).

(4) A record of actions taken to minimize emissions in accordance with § 63.4300(b) and any corrective actions

taken to return the affected unit to its normal or usual manner of operation.

(j) If you use the emission rate with add-on controls option, the organic HAP overall control efficiency option, or the oxidizer outlet organic HAP concentration option, you must also keep the records specified in paragraphs (j)(1) through (8) of this section.

(1) Before September 12, 2019, for each deviation, a record of whether the deviation occurred during a period of startup, shutdown, or malfunction. The record in this paragraph (j)(1) is not required on and after September 12, 2019.

(2) Before September 12, 2019, the records in § 63.6(e)(3)(iii) through (v) related to startup, shutdown, and malfunction. The records in this paragraph (j)(2) are not required on and after September 12, 2019.

* * * * *

■ 27. Section 63.4313 is amended by revising paragraph (a) to read as follows:

§ 63.4313 In what form and for how long must I keep my records?

(a) Your records must be in a form suitable and readily available for expeditious review, according to § 63.10(b)(1). Where appropriate, the records may be maintained as electronic spreadsheets or as a database. Any records required to be maintained by this subpart that are in reports that were submitted electronically via the EPA's CEDRI may be maintained in electronic format. This ability to maintain electronic copies does not affect the requirement for facilities to make records, data, and reports available upon request to a delegated air agency or the EPA as part of an on-site compliance evaluation.

* * * * *

■ 28. Section 63.4321 is amended by revising paragraphs (e)(1)(i)(A), (e)(1)(ii) and (iv), and (e)(2)(i) to read as follows:

§ 63.4321 How do I demonstrate initial compliance with the emission limitations?

* * * * *

(e) * * *

(1) * * *

(i) * * *

(A) Count each organic HAP in Table 6 to this subpart that is measured to be present at 0.1 percent by mass or more and at 1.0 percent by mass or more for other compounds. For example, if toluene (not listed in Table 6 to this subpart) is measured to be 0.5 percent of the material by mass, you don't have to count it. Express the mass fraction of each organic HAP you count as a value truncated to no more than four places after the decimal point (*e.g.,* 0.3791).

* * * * *

(ii) *Method 24 in appendix A–7 of part 60.* You may use Method 24 to determine the mass fraction of nonaqueous volatile matter and use that value as a substitute for mass fraction of organic HAP. As an alternative to using Method 24, you may use ASTM D2369–10 (R2015), ''Test Method for Volatile Content of Coatings'' (incorporated by reference, *see* § 63.14). For a multi-component coating with reactive chemicals, you may use Method 24 or ASTM D2369–10 (R2015) on the coating as applied to determine the mass fraction of nonaqueous volatile matter and use that value as a substitute for the mass fraction of organic HAP determined from the sum of organic HAP in each component.

* * * * *

(iv) *Information from the supplier or manufacturer of the material.* You may rely on information other than that generated by the test methods specified in paragraphs (e)(1)(i) through (iii) of this section, such as manufacturer's formulation data, if it represents each organic HAP in Table 6 to this subpart that is present at 0.1 percent by mass or more and at 1.0 percent by mass or more for other compounds. For example, if toluene (not listed in Table 6 to this subpart) is 0.5 percent of the material by mass, you do not have to count it. If there is a disagreement between such information and results of a test conducted according to paragraphs (e)(1)(i) through (iii) of this section on coating, thinning, or cleaning material, then the test method results will take precedence. Information from the supplier or manufacturer of the printing, slashing, dyeing, or finishing material is sufficient for determining the mass fraction of organic HAP.

* * * * *

(2) * * *

(i) *Method 24 in appendix A–7 of part 60.* You may use Method 24 for determining the mass fraction of solids of coating materials. As an alternative to using Method 24, you may use ASTM D2369–10 (R2015), ''Test Method for Volatile Content of Coatings'' (incorporated by reference, *see* § 63.14).

* * * * *

■ 29. Section 63.4340 is amended by revising the section heading and paragraph (b)(3) to read as follows:

§ 63.4340 By what date must I conduct initial performance tests and other initial compliance demonstrations?

* * * * *

(b) * * *

(3) You must complete the compliance demonstration for the initial compliance period according to the requirements of § 63.4341. The initial compliance period begins on the applicable compliance date specified in § 63.4283 and ends on the last day of the 12th full month after the compliance date. The initial compliance demonstration includes the results of emission capture system and add-on control device performance tests conducted according to §§ 63.4360, 63.4361, and 63.4362; results of liquid-liquid material balances conducted according to § 63.4341(e)(5) or (f)(5); calculations according to § 63.4341 and supporting documentation showing that during the initial compliance period the organic HAP emission rate was equal to or less than the applicable emission limit in Table 1 to this subpart; the operating limits established during the performance tests and the results of the continuous parameter monitoring required by § 63.4364; and documentation of whether you developed and implemented the work practice plan required by § 63.4293.

■ 30. Section 63.4341 is amended:

■ a. In paragraph (e)(4) introductory text by removing the three sentences after the subject heading and adding four sentences in their place;

■ b. By revising paragraph (e)(5)(iii); and

■ c. In paragraph (f)(4) introductory text by removing the first four sentences after the subject heading and adding four new sentences in their place.

The additions and revision read as follows:

§ 63.4341 How do I demonstrate initial compliance?

* * * * *

(e) * * *

(4) * * * For each controlled web coating/printing operation using an emission capture system and add-on control device other than a solvent recovery system for which you conduct liquid-liquid material balances, calculate the organic HAP emissions reductions using Equation 1 of this section. The equation applies the emission capture system efficiency and add-on control device efficiency to the mass of organic HAP contained in the coating, printing, thinning, and cleaning materials applied in the web coating/printing operation served by the emission capture system and add-on control device during the compliance period. For any period of time a deviation specified in § 63.4342(c) or (d) occurs in the controlled web coating/printing operation, then you must assume zero efficiency for the emission capture system and add-on control device. Equation 1 of this section treats the coating, printing, thinning, and

cleaning materials applied during such a deviation as if they were used on an uncontrolled web coating/printing operation for the time period of the deviation. * * *

* * * * *

(5) * * *

(iii) Determine the mass fraction of volatile organic matter for each coating, printing, cleaning, and thinning material applied in the web coating/printing operation controlled by the solvent recovery system during the compliance period, kg volatile organic matter per kg coating, printing, cleaning, and thinning material. You may determine the volatile organic matter mass fraction using Method 24 in appendix A–7 of part 60, ASTM D2369–10 (R2015), ''Test Method for Volatile Content of Coatings'' (incorporated by reference, *see* § 63.14), or an EPA approved alternative method. Alternatively, you may use information provided by the manufacturer or supplier of the coating or printing material. In the event of any inconsistency between information provided by the manufacturer or supplier and the results of Method 24, ASTM D2369–10 (R2015), or an approved alternative method, the test method results will govern.

* * * * *

(f) * * *

(4) * * * For each controlled dyeing/finishing operation using an emission capture system and add-on control device other than a solvent recovery system for which you conduct liquid-liquid material balances, calculate the organic HAP emissions reductions using Equation 5 of this section. The equation applies the emission capture system efficiency and add-on control device efficiency to the mass of organic HAP contained in the dyeing and finishing materials applied in the dyeing/finishing operation served by the emission capture system and add-on control device during the compliance period. For any period of time a deviation specified in § 63.4342(c) or (d) occurs in the controlled dyeing/finishing operation, then you must assume zero efficiency for the emission capture system and add-on control device. Equation 5 of this section treats the dyeing and finishing materials applied during such a deviation as if they were applied on an uncontrolled dyeing/finishing operation for the time period of the deviation. * * *

* * * * *

■ 31. Section 63.4342 is amended by revising the section heading and paragraph (c) introductory text, adding paragraph (c)(3), and revising paragraphs (f) and (h) to read as follows:

§ 63.4342 How do I conduct periodic performance tests and demonstrate continuous compliance with the emission limitations?

* * * * *

(c) You must demonstrate continuous compliance with each operating limit required by § 63.4292 that applies to you, as specified in Table 2 to this subpart, and you must conduct periodic performance tests as specified in paragraph (c)(3) of this section.

* * * * *

(3) Except for solvent recovery systems for which you conduct liquid-liquid material balances according to § 63.4351(d)(5), within 5 years following the previous performance test, you must conduct according to the procedures in §§ 63.4360, 63.4361, and 63.4362 a periodic performance test of each capture system and add-on control device used, and you must establish the operating limits required by § 63.4292. You must conduct the first periodic performance test and establish the operating limits required by § 63.4292 before March 15, 2022, unless you are already required to complete periodic performance tests as a requirement of renewing your facility's operating permit under 40 CFR part 70 or 40 CFR part 71 and have conducted a performance test on or after March 15, 2017. Thereafter you must conduct a performance test no later than 5 years following the previous performance test. Operating limits must be confirmed or reestablished during each performance test.

* * * * *

(f) As part of each semiannual compliance report required in § 63.4311, you must identify the coating/printing and dyeing/finishing operation(s) for which you use the emission rate with add-on controls option. If there were no deviations from the applicable emission limitations in §§ 63.4290, 63.4292, and 63.4293, you must submit a statement that, as appropriate, the web coating/printing operations or the dyeing/finishing operations were in compliance with the emission limitations during the reporting period because the organic HAP emission rate for each compliance period was less than or equal to the applicable emission limit in Table 1 to this subpart, and you achieved the operating limits required by § 63.4292 and the work practice standards required by § 63.4293 during each compliance period.

* * * * *

(h) Before September 12, 2019, consistent with §§ 63.6(e) and 63.7(e)(1), deviations that occur during a period of startup, shutdown, or malfunction of the emission capture system, add-on control device, or web coating/printing or dyeing/finishing operation that may affect emission capture or control device efficiency are not violations if you demonstrate to the Administrator's satisfaction that you were operating in accordance with § 63.6(e)(1). The Administrator will determine whether deviations that occur during a period of startup, shutdown, or malfunction are violations according to the provisions in § 63.6(e). On and after September 12, 2019, as specified in § 63.4300(b), at all times, the owner or operator must operate and maintain any affected source, including associated air pollution control equipment and monitoring equipment, in a manner consistent with safety and good air pollution control practices for minimizing emissions, and determination of whether a source is operating in compliance with operation and maintenance requirements will be based on information available to the Administrator.

* * * * *

■ 32. Section 63.4350 is amended by revising paragraphs (a)(3) and (b)(3) to read as follows:

§ 63.4350 By what date must I conduct performance tests and other initial compliance demonstrations?

(a) * * *

(3) You must complete the compliance demonstration for the initial compliance period according to the requirements of § 63.4351. The initial compliance period begins on the applicable compliance date specified in § 63.4283 and ends on the last day of the first full month after the compliance date, or the date you conduct the performance tests of the emission capture systems and add-on control devices, or initiate the first liquid-liquid material balance for a solvent recovery system, whichever is later. The initial compliance demonstration includes the results of emission capture system and add-on control device performance tests conducted according to §§ 63.4360, 63.4361, and 63.4362; results of liquid-liquid material balances conducted according to § 63.4351(d)(5); calculations according to § 63.4351 and supporting documentation showing that during the initial compliance period either the organic HAP overall control efficiency was equal to or greater than the applicable overall control efficiency limit in Table 1 to this subpart or the oxidizer outlet organic HAP concentration was no greater than 20 parts per million by volume (ppmv) on

a dry basis; the operating limits established during the performance tests and the results of the continuous parameter monitoring required by § 63.4364; and documentation of whether you developed and implemented the work practice plan required by § 63.4293.

* * * * *

(b) * * *

(3) You must complete the compliance demonstration for the initial compliance period according to the requirements of § 63.4351. The initial compliance period begins on the applicable compliance date specified in § 63.4283 and ends on the last day of the first full month after the compliance date. The initial compliance demonstration includes the results of emission capture system and add-on control device performance tests conducted according to §§ 63.4360, 63.4361, and 63.4362; results of liquid-liquid material balances conducted according to § 63.4351(d)(5); calculations according to § 63.4351 and supporting documentation showing that during the initial compliance period the organic HAP overall control efficiency was equal to or greater than the applicable organic HAP overall control efficiency limit in Table 1 to this subpart or the oxidizer outlet organic HAP concentration was no greater than 20 ppmv on a dry basis and the efficiency of the capture system was 100 percent; the operating limits established during the performance tests and the results of the continuous parameter monitoring required by § 63.4364; and documentation of whether you developed and implemented the work practice plan required by § 63.4293.

■ 33. Section 63.4351 is amended by revising paragraphs (a), (d)(4) introductory text, (d)(5)(iii), and (e) introductory text to read as follows:

§ 63.4351 How do I demonstrate initial compliance?

(a) You may use the organic HAP overall control efficiency option or the oxidizer outlet organic HAP concentration option for any individual web coating/printing operation, for any group of web coating/printing operations in the affected source, or for all of the web coating/printing operations in the affected source. You may include both controlled and uncontrolled web coating/printing operations in a group for which you use the organic HAP overall control efficiency option. You must use either the compliant material option, the emission rate without add-on controls option, or the emission rate with add-on controls option for any web coating/printing operation(s) in the affected source for which you do not use either the organic HAP overall control efficiency option or the oxidizer outlet organic HAP concentration option. To demonstrate initial compliance, any web coating/printing operation for which you use the organic HAP overall control efficiency option must meet the applicable organic HAP overall control efficiency limitations in Table 1 to this subpart according to the procedures in paragraph (d) of this section. Any web coating/printing operation for which you use the oxidizer outlet organic HAP concentration option must meet the 20 ppmv on a dry basis limit and achieve 100 percent capture efficiencies according to the procedures in paragraph (e) of this section. To demonstrate initial compliance with either option, you also must meet the applicable operating limits in § 63.4292 according to the procedures in paragraph (b) of this section and the work practice standards in § 63.4293 according to the procedures in paragraph (c) of this section. When calculating the organic HAP overall control efficiency according to this section, do not include any coating, printing, thinning, or cleaning materials applied on web coating/printing operations for which you use the compliant material option, the emission rate without add-on controls option, the emission rate with add-on controls option, or the oxidizer outlet organic HAP concentration option. You do not need to redetermine the mass of organic HAP in coating, printing, thinning, or cleaning materials that have been reclaimed onsite and reused in web coating/printing operation(s) for which you use the organic HAP overall control efficiency option.

* * * * *

(d) * * *

(4) *Calculate the organic HAP emissions reductions for controlled web coating/printing operations not using liquid-liquid material balance.* For each controlled web coating/printing operation using an emission capture system and add-on control device other than a solvent recovery system for which you conduct liquid-liquid material balances, calculate the organic HAP emissions reductions using Equation 1 of § 63.4341. The equation applies the emission capture system efficiency and add-on control device efficiency to the mass of organic HAP contained in the coating, printing, thinning, and cleaning materials applied in the web coating/printing operation served by the emission capture system and add-on control device during the compliance period. For any period of time a deviation specified in § 63.4352(c) or (d) occurs in the controlled web coating/printing operation, then you must assume zero efficiency for the emission capture system and add-on control device. Equation 1 of § 63.4341 treats the coating, printing, thinning, and cleaning materials applied during such a deviation as if they were applied on an uncontrolled web coating/printing operation for the time period of the deviation.

* * * * *

(5) * * *

(iii) Determine the mass fraction of volatile organic matter for each coating and printing material applied in the web coating/printing operation controlled by the solvent recovery system during the compliance period, kg volatile organic matter per kg coating and printing material. You may determine the volatile organic matter mass fraction using Method 24 in appendix A–7 of part 60, ASTM D2369–10 (R2015), ''Test Method for Volatile Content of Coatings'' (incorporated by reference, *see* § 63.14), or an EPA approved alternative method. Alternatively, you may use information provided by the manufacturer or supplier of the coating or printing material. In the event of any inconsistency between information provided by the manufacturer or supplier and the results of Method 24, ASTM D2369–10 (R2015), or an approved alternative method, the test method results will govern.

* * * * *

(e) *Compliance with oxidizer outlet organic HAP concentration limit.* You must follow the procedures in paragraphs (e)(1) through (3) of this section to demonstrate compliance with the oxidizer outlet organic HAP concentration limit of no greater than 20 ppmv on a dry basis.

* * * * *

■ 34. Section 63.4352 is amended by revising paragraph (h) to read as follows:

§ 63.4352 How do I demonstrate continuous compliance with the emission limitations?

* * * * *

(h) Before September 12, 2019, consistent with §§ 63.6(e) and 63.7(e)(1), deviations that occur during a period of startup, shutdown, or malfunction of the emission capture system, add-on control device, or web coating/printing operation that may affect emission capture or control device efficiency are not violations if you demonstrate to the Administrator's satisfaction that you

were operating in accordance with § 63.6(e)(1). The Administrator will determine whether deviations that occur during a period of startup, shutdown, or malfunction are violations according to the provisions in § 63.6(e). On and after September 12, 2019, as specified in § 63.4300(b), at all times, the owner or operator must operate and maintain any affected source, including associated air pollution control equipment and monitoring equipment, in a manner consistent with safety and good air pollution control practices for minimizing emissions, and determination of whether a source is operating in compliance with operation and maintenance requirements will be based on information available to the Administrator.

* * * * *

■ 35. Section 63.4360 is amended by revising paragraphs (a) introductory text and (a)(1) to read as follows:

§ 63.4360 What are the general requirements for performance tests?

(a) You must conduct each performance test required by § 63.4340 or § 63.4350 according to the requirements in this section, unless you obtain a waiver of the performance test according to the provisions in § 63.7(h).

(1) *Representative web coating/printing or dyeing/finishing operation operating conditions.* You must conduct the performance test under representative operating conditions for the web coating/printing or dyeing/finishing operation. Operations during periods of startup, shutdown, or nonoperation do not constitute representative conditions for purposes of conducting a performance test. The owner or operator may not conduct performance tests during periods of malfunction. You must record the process information that is necessary to document operating conditions during the test and explain why the conditions represent normal operation. Upon request, you must make available to the Administrator such records as may be necessary to determine the conditions of performance tests.

* * * * *

■ 36. Section 63.4362 is amended by revising paragraphs (a)(1) through (4) and (b) introductory text to read as follows:

§ 63.4362 How do I determine the add-on control device emission destruction or removal efficiency?

* * * * *

(a) * * *

(1) Use Method 1 or 1A in appendix A–1 of part 60, as appropriate, to select sampling sites and velocity traverse points.

(2) Use Method 2, 2A, 2C, 2D, or 2F in appendix A–1, or Method 2G in appendix A–2, of part 60, as appropriate, to measure gas volumetric flow rate.

(3) Use Method 3, 3A, or 3B in appendix A of part 60, as appropriate, for gas analysis to determine dry molecular weight. You may also use as an alternative to Method 3B, the manual method for measuring the oxygen, carbon dioxide, and carbon monoxide content of exhaust gas in ANSI/ASME, PTC 19.10–1981, ''Flue and Exhaust Gas Analyses [Part 10, Instruments and Apparatus]'' (incorporated by reference, *see* § 63.14).

(4) Use Method 4 in appendix A of part 60 to determine stack gas moisture.

* * * * *

(b) Measure the volatile organic matter concentration as carbon at the inlet and outlet of the add-on control device simultaneously, using Method 25 or 25A in appendix A–7 of part 60. If you are demonstrating compliance with the oxidizer outlet organic HAP concentration limit, only the outlet volatile organic matter concentration must be determined. The outlet volatile organic matter concentration is determined as the average of the three test runs. You may use Method 18 in appendix A–6 of part 60 to subtract methane emissions from measured volatile organic matter concentration as carbon.

* * * * *

■ 37. Section 63.4364 is amended by:

■ a. Revising paragraphs (a)(6) through (8) and (c) introductory text;

■ b. Redesignating paragraphs (c)(i) through (iii) as (c)(1) through (3), respectively; and

■ c. Revising newly redesignated paragraph (c)(1).

The revisions read as follows:

§ 63.4364 What are the requirements for CPMS installation, operation, and maintenance?

(a) * * *

(6) At all times, you must maintain the monitoring system in accordance with § 63.4300(b) and in proper working order including, but not limited to, keeping readily available necessary parts for routine repairs of the monitoring equipment.

(7) Before September 12, 2019, except for monitoring malfunctions, associated repairs, or required quality assurance or control activities (including calibration checks or required zero and span adjustments), you must conduct all monitoring at all times that the unit is operating. On and after September 12, 2019, you must operate the CPMS and collect emission capture system and add-on control device parameter data at all times in accordance with § 63.4300(b). Data recorded during monitoring malfunctions, associated repairs, out-of-control periods, or required quality assurance or control activities shall not be used for purposes of calculating the emissions concentrations and percent reductions specified in Table 1 to this subpart. You must use all the data collected during all other periods in assessing compliance of the control device and associated control system. A monitoring malfunction is any sudden, infrequent, not reasonably preventable failure of the monitoring system to provide valid data. Monitoring failures that are caused in part by poor maintenance or careless operation are not malfunctions.

(8) Except for periods of required quality assurance or control activities, any averaging period during which the CPMS fails to operate and record data continuously as required by paragraph (a)(1) of this section, or during which generated data cannot be included in calculating averages as specified in paragraph (a)(7) of this section, constitutes a deviation, and you must notify the Administrator in accordance with § 63.4311(a).

* * * * *

(c) *Oxidizers.* If you are using an oxidizer to comply with the emission standards, you must comply with paragraphs (c)(1) through (3) of this section.

(1) Install, calibrate, maintain, and operate temperature monitoring equipment according to the manufacturer's specifications. The calibration of the chart recorder, data logger, or temperature indicator must be verified every 3 months or the chart recorder, data logger, or temperature indicator must be replaced. A thermocouple is considered part of the temperature indicator for purposes of performing periodic calibration and verification checks.

* * * * *

■ 38. Section 63.4371 is amended by revising the definition of ''Deviation'' to read as follows:

§ 63.4371 What definitions apply to this subpart?

* * * * *

Deviation means:

(1) Before September 12, 2019, any instance in which an affected source subject to this subpart or an owner or operator of such a source:

(i) Fails to meet any requirement or obligation established by this subpart

including but not limited to any emission limit, or operating limit, or work practice standard;

(ii) Fails to meet any term or condition that is adopted to implement an applicable requirement in this subpart and that is included in the operating permit for any affected source required to obtain such a permit; or

(iii) Fails to meet any emission limit, or operating limit, or work practice standard in this subpart during startup, shutdown, or malfunction regardless of whether or not such failure is permitted by this subpart; and

(2) On and after September 12, 2019, any instance in which an affected source subject to this subpart or an owner or operator of such a source:

(i) Fails to meet any requirement or obligation established by this subpart including but not limited to any emission limit, or operating limit, or work practice standard; or

(ii) Fails to meet any term or condition that is adopted to implement an applicable requirement in this subpart and that is included in the operating permit for any affected source required to obtain such a permit.

* * * * *

No organic HAP means no organic HAP in Table 5 to this subpart is present at 0.1 percent by mass or more and no organic HAP not listed in Table 5 to this subpart is present at 1.0 percent by mass or more. The organic HAP content of a regulated material is determined according to § 63.4321(e)(1).

* * * * *

■ 39. Table 3 to subpart OOOO of part 63 is revised to read as follows:

TABLE 3 TO SUBPART OOOO OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART OOOO

[You must comply with the applicable General Provisions requirements according to the following table:]

Citation	Subject	Applicable to subpart OOOO	Explanation
§ 63.1(a)(1)–(12)	General Applicability	Yes	
§ 63.1(b)(1)–(3)	Initial Applicability Determination	Yes	Applicability to subpart OOOO is also specified in § 63.4281.
§ 63.1(c)(1)	Applicability After Standard Established	Yes	
§ 63.1(c)(2)–(3)	Applicability of Permit Program for Area Sources.	No	Area sources are not subject to subpart OOOO.
§ 63.1(c)(4)–(5)	Extensions and Notifications	Yes	
§ 63.1(e)	Applicability of Permit Program Before Relevant Standard is Set.	Yes	
§ 63.2	Definitions	Yes	Additional definitions are specified in § 63.4371.
§ 63.3(a)–(c)	Units and Abbreviations	Yes	
§ 63.4(a)(1)–(5)	Prohibited Activities	Yes	
§ 63.4(b)–(c)	Circumvention/Severability	Yes	
§ 63.5(a)	Construction/Reconstruction	Yes	
§ 63.5(b)(1)–(6)	Requirements for Existing, Newly Constructed, and Reconstructed Sources.	Yes	
§ 63.5(d)	Application for Approval of Construction/Reconstruction.	Yes	
§ 63.5(e)	Approval of Construction/Reconstruction	Yes	
§ 63.5(f)	Approval of Construction/Reconstruction Based on Prior State Review.	Yes	
§ 63.6(a)	Compliance With Standards and Maintenance Requirements—Applicability.	Yes	
§ 63.6(b)(1)–(7)	Compliance Dates for New and Reconstructed Sources.	Yes	Section 63.4283 specifies the compliance dates.
§ 63.6(c)(1)–(5)	Compliance Dates for Existing Sources	Yes	Section 63.4283 specifies the compliance dates.
§ 63.6(e)(1)(i)	Operation and Maintenance	Yes, before September 12, 2019. No, on and after September 12, 2019.	*See* § 63.4300(b) for general duty requirement.
§ 63.6(e)(1)(ii)	Operation and Maintenance	Yes, before September 12, 2019. No, on and after September 12, 2019.	
§ 63.6(e)(1)(iii)	Operation and Maintenance	Yes	
§ 63.6(e)(3)	Startup, Shutdown, and Malfunction Plan	Yes, before September 12, 2019. No, on and after September 12, 2019.	
§ 63.6(f)(1)	Compliance Except During Startup, Shutdown, and Malfunction.	Yes, before September 12, 2019. No, on and after September 12, 2019.	
§ 63.6(f)(2)–(3)	Methods for Determining Compliance	Yes	
§ 63.6(g)(1)–(3)	Use of an Alternative Standard	Yes	
§ 63.6(h)	Compliance With Opacity/Visible Emission Standards.	No	Subpart OOOO does not establish opacity standards and does not require continuous opacity monitoring systems (COMS).
§ 63.6(i)(1)–(16)	Extension of Compliance	Yes	

TABLE 3 TO SUBPART OOOO OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART OOOO—Continued

[You must comply with the applicable General Provisions requirements according to the following table:]

Citation	Subject	Applicable to subpart OOOO	Explanation
§ 63.6(j)	Presidential Compliance Exemption	Yes	
§ 63.7(a)(1)	Performance Test Requirements—Applicability.	Yes	Applies to all affected sources. Additional requirements for performance testing are specified in §§ 63.4360, 63.4361, and 63.4362.
§ 63.7(a)(2)	Performance Test Requirements—Dates	Yes	Applies only to performance tests for capture system and control device efficiency at sources using these to comply with the standard.
§ 63.7(a)(3)	Performance Tests Required by the Administrator.	Yes	
§ 63.7(b)–(d)	Performance Test Requirements—Notification, Quality Assurance, Facilities Necessary for Safe Testing, Conditions During Test.	Yes	Applies only to performance tests for capture system and control device efficiency at sources using these to comply with the standard.
§ 63.7(e)(1)	Conduct of performance tests	Yes, before September 12, 2019.. No, on and after September 12, 2019.	*See* § 63.4360.
§ 63.7(e)(2)–(4)	Conduct of performance tests	Yes	
§ 63.7(f)	Performance Test Requirements—Use of Alternative Test Method.	Yes	Applies to all test methods except those used to determine capture system efficiency.
§ 63.7(g)–(h)	Performance Test Requirements—Data Analysis, Recordkeeping, Waiver of Test.	Yes	Applies only to performance tests for capture system and add-on control device efficiency at sources using these to comply with the standards.
§ 63.8(a)(1)–(3)	Monitoring Requirements—Applicability	Yes	Applies only to monitoring of capture system and add-on control device efficiency at sources using these to comply with the standards. Additional requirements for monitoring are specified in § 63.4364.
§ 63.8(a)(4)	Additional Monitoring Requirements	No	Subpart OOOO does not have monitoring requirements for flares.
§ 63.8(b)	Conduct of Monitoring	Yes	
§ 63.8(c)(1)	Continuous Monitoring Systems (CMS) Operation and Maintenance.	Yes, before September 12, 2019. No, on and after September 12, 2019.	Section 63.4364 specifies the requirements for the operation of CMS for capture systems and add-on control devices at sources using these to comply.
§ 63.8(c)(2)–(3)	CMS Operation and Maintenance	Yes	Applies only to monitoring of capture system and add-on control device efficiency at sources using these to comply with the standards. Additional requirements for CMS operations and maintenance are specified in § 63.4364.
§ 63.8(c)(4)	CMS	No	Section 63.4364 specifies the requirements for the operation of CMS for capture systems and add-on control devices at sources using these to comply.
§ 63.8(c)(5)	COMS	No	Subpart OOOO does not have opacity or visible emission standards.
§ 63.8(c)(6)	CMS Requirements	No	Section 63.4364 specifies the requirements for monitoring systems for capture systems and add-on control devices at sources using these to comply.
§ 63.8(c)(7)	CMS Out of Control Periods	Yes	
§ 63.8(c)(8)	CMS Out of Control Periods and Reporting	No	Section 63.4311 requires reporting of CMS out-of-control periods.
§ 63.8(d)–(e)	Quality Control Program and CMS Performance Evaluation.	No	Subpart OOOO does not require the use of CEMS.
§ 63.8(f)(1)–(5)	Use of an Alternative Monitoring Method	Yes	
§ 63.8(f)(6)	Alternative to Relative Accuracy Test	No	Subpart OOOO does not require the use of CEMS.
§ 63.8(g)(1)–(5)	Data Reduction	No	Sections 63.4363 and 63.4364 specify monitoring data reduction.
§ 63.9(a)	Applicability and General Information	Yes	
§ 63.9(b)	Initial Notifications	No	Subpart OOOO provides 1 year for an existing source to submit an initial notification.

TABLE 3 TO SUBPART OOOO OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART OOOO—Continued

[You must comply with the applicable General Provisions requirements according to the following table:]

Citation	Subject	Applicable to subpart OOOO	Explanation
§ 63.9(c)	Request for Extension of Compliance	Yes	
§ 63.9(d)	Notification that Source is Subject to Special Compliance Requirements.	Yes	
§ 63.9(e)	Notification of Performance Test	Yes	Applies only to capture system and add-on control device performance tests at sources using these to comply with the standards.
§ 63.9(f)	Notification of Visible Emissions/Opacity Test.	No	Subpart OOOO does not have opacity or visible emission standards.
§ 63.9(g)(1)–(3)	Additional Notifications When Using CMS	No	Subpart OOOO does not require the use of CEMS.
§ 63.9(h)	Notification of Compliance Status	Yes	Section 63.4310 specifies the dates for submitting the notification of compliance status.
§ 63.9(i)	Adjustment of Submittal Deadlines	Yes	
§ 63.9(j)	Change in Previous Information	Yes	
§ 63.10(a)	Recordkeeping/Reporting—Applicability and General Information.	Yes	
§ 63.10(b)(1)	General Recordkeeping Requirements	Yes	Additional Requirements are specified in §§ 63.4312 and 63.4313.
§ 63.10(b)(2)(i)	Recordkeeping of Occurrence and Duration of Startups and Shutdowns.	Yes, before September 12, 2019. No, on and after September 12, 2019.	*See* § 63.4312(i)
§ 63.10(b)(2)(ii)	Recordkeeping of Failures to Meet Standards.	Yes, before September 12, 2019. No, on and after September 12, 2019.	*See* § 63.4312(i).
§ 63.10(b)(2)(iii)	Recordkeeping Relevant to Maintenance of Air Pollution Control and Monitoring Equipment.	Yes	
§ 63.10(b)(2)(iv)–(v)	Actions Taken to Minimize Emissions During Startup, Shutdown, and Malfunction.	Yes, before September 12, 2019. No, on and after September 12, 2019.	*See* § 63.4312(i)(4) for a record of actions taken to minimize emissions during a deviation from the standard.
§ 63.10(b)(2)(vi)	Recordkeeping for CMS malfunctions	Yes, before September 12, 2019. No, on and after September 12, 2019..	*See* § 63.4312(i) for records of periods of deviation from the standard, including instances where a CMS is inoperative or out-of-control.
§ 63.10(b)(2)(vii)–(xi)	Records	Yes	
§ 63.10(b)(2)(xii)	Records	Yes	
§ 63.10(b)(2)(xiii)		No	Subpart OOOO does not require the use of CEMS.
§ 63.10(b)(2)(xiv)		Yes	
§ 63.10(b)(3)	Recordkeeping Requirements for Applicability Determinations.	Yes	
§ 63.10(c)(1)–(6)	Additional Recordkeeping Requirements for Sources with CMS.	Yes	
§ 63.10(c)(7)–(8)	Additional Recordkeeping Requirements for Sources with CMS.	No	*See* § 63.4312(i)(1) for records of periods of deviation from the standard, including instances where a CMS is inoperative or out-of-control.
§ 63.10(c)(10)–(14)	Additional Recordkeeping Requirements for Sources with CMS.	Yes	
§ 63.10(c)(15)	Records Regarding the Startup, Shutdown, and Malfunction Plan.	Yes, before September 12, 2019. No, on and after September 12, 2019.	
§ 63.10(d)(1)	General Reporting Requirements	Yes	Additional requirements are specified in § 63.4311.
§ 63.10(d)(2)	Report of Performance Test Results	Yes	Additional requirements are specified in § 63.4311(b).
§ 63.10(d)(3)	Reporting Opacity or Visible Emissions Observations.	No	Subpart OOOO does not require opacity or visible emissions observations.
§ 63.10(d)(4)	Progress Reports for Sources With Compliance Extensions.	Yes	

TABLE 3 TO SUBPART OOOO OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART OOOO—Continued

[You must comply with the applicable General Provisions requirements according to the following table:]

Citation	Subject	Applicable to subpart OOOO	Explanation
§ 63.10(d)(5)	Startup, Shutdown, and Malfunction Reports.	Yes, before September 12, 2019. No, on and after September 12, 2019.	*See* § 63.4311(a)(7).
§ 63.10(e)(1)–(2)	Additional CMS Reports	No	Subpart OOOO does not require the use of CEMS.
§ 63.10(e)(3)	Excess Emissions/CMS Performance Reports.	No	Section 63.4311(a) specifies the contents of periodic compliance reports.
§ 63.10(e)(4)	COMS Data Reports	No	Subpart OOOO does not specify requirements for opacity or COMS.
§ 63.10(f)	Recordkeeping/Reporting Waiver	Yes	
§ 63.11	Control Device Requirements/Flares	No	Subpart OOOO does not specify use of flares for compliance.
§ 63.12	State Authority and Delegations	Yes	
§ 63.13	Addresses	Yes	
§ 63.14	Incorporation by Reference	Yes	ASNI/ASME PTC 19.10–1981, part 10.
§ 63.15	Availability of Information/Confidentiality	Yes	

■ 40. Table 6 to subpart OOOO of part 63 is added to read as follows:

TABLE 6—TO SUBPART OOOO OF PART 63—LIST OF HAZARDOUS AIR POLLUTANTS THAT MUST BE COUNTED TOWARD TOTAL ORGANIC HAP CONTENT IF PRESENT AT 0.1 PERCENT OR MORE BY MASS

Chemical name	CAS No.
1,1,2,2-Tetrachloroethane	79–34–5
1,1,2-Trichloroethane	79–00–5
1,1-Dimethylhydrazine	57–14–7
1,2-Dibromo-3-chloropropane	96–12–8
1,2-Diphenylhydrazine	122–66–7
1,3-Butadiene	106–99–0
1,3-Dichloropropene	542–75–6
1,4-Dioxane	123–91–1
2,4,6-Trichlorophenol	88–06–2
2,4/2,6-Dinitrotoluene (mixture)	25321–14–6
2,4-Dinitrotoluene	121–14–2
2,4-Toluene diamine	95–80–7
2-Nitropropane	79–46–9
3,3'-Dichlorobenzidine	91–94–1
3,3'-Dimethoxybenzidine	119–90–4
3,3'-Dimethylbenzidine	119–93–7
4,4'-Methylene bis(2-chloroaniline)	101–14–4
Acetaldehyde	75–07–0
Acrylamide	79–06–1
Acrylonitrile	107–13–1
Allyl chloride	107–05–1
alpha-Hexachlorocyclohexane (a-HCH)	319–84–6
Aniline	62–53–3
Benzene	71–43–2
Benzidine	92–87–5
Benzotrichloride	98–07–7
Benzyl chloride	100–44–7
beta-Hexachlorocyclohexane (b-HCH)	319–85–7
Bis(2-ethylhexyl)phthalate	117–81–7
Bis(chloromethyl)ether	542–88–1
Bromoform	75–25–2
Captan	133–06–2
Carbon tetrachloride	56–23–5
Chlordane	57–74–9
Chlorobenzilate	510–15–6
Chloroform	67–66–3
Chloroprene	126–99–8
Cresols (mixed)	1319–77–3
DDE	3547–04–4
Dichloroethyl ether	111–44–4
Dichlorvos	62–73–7
Epichlorohydrin	106–89–8

TABLE 6—TO SUBPART OOOO OF PART 63—LIST OF HAZARDOUS AIR POLLUTANTS THAT MUST BE COUNTED TOWARD TOTAL ORGANIC HAP CONTENT IF PRESENT AT 0.1 PERCENT OR MORE BY MASS—Continued

Chemical name	CAS No.
Ethyl acrylate	140–88–5
Ethylene dibromide	106–93–4
Ethylene dichloride	107–06–2
Ethylene oxide	75–21–8
Ethylene thiourea	96–45–7
Ethylidene dichloride (1,1-Dichloroethane)	75–34–3
Formaldehyde	50–00–0
Heptachlor	76–44–8
Hexachlorobenzene	118–74–1
Hexachlorobutadiene	87–68–3
Hexachloroethane	67–72–1
Hydrazine	302–01–2
Isophorone	78–59–1
Lindane (hexachlorocyclohexane, all isomers)	58–89–9
m-Cresol	108–39–4
Methylene chloride	75–09–2
Naphthalene	91–20–3
Nitrobenzene	98–95–3
Nitrosodimethylamine	62–75–9
o-Cresol	95–48–7
o-Toluidine	95–53–4
Parathion	56–38–2
p-Cresol	106–44–5
p-Dichlorobenzene	106–46–7
Pentachloronitrobenzene	82–68–8
Pentachlorophenol	87–86–5
Propoxur	114–26–1
Propylene dichloride	78–87–5
Propylene oxide	75–56–9
Quinoline	91–22–5
Tetrachloroethene	127–18–4
Toxaphene	8001–35–2
Trichloroethylene	79–01–6
Trifluralin	1582–09–8
Vinyl bromide	593–60–2
Vinyl chloride	75–01–4
Vinylidene chloride	75–35–4

Subpart RRRR—National Emission Standards for Hazardous Air Pollutants: Surface Coating of Metal Furniture

■ 41. Section 63.4900 is revised to read as follows:

§ 63.4900 What are my general requirements for complying with this subpart?

(a) The affected source must be in compliance at all times with the applicable emission limitations specified in §§ 63.4890, 63.4892, and 63.4893.

(b) Before September 12, 2019, you must always operate and maintain your affected source, including all air pollution control and monitoring equipment you use for purposes of complying with this subpart, according to the provisions in § 63.6(e)(1)(i). On and after September 12, 2019, at all times, the owner or operator must operate and maintain any affected source, including associated air pollution control equipment and monitoring equipment, in a manner consistent with safety and good air pollution control practices for minimizing emissions. The general duty to minimize emissions does not require the owner or operator to make any further efforts to reduce emissions if levels required by the applicable standard have been achieved. Determination of whether a source is operating in compliance with operation and maintenance requirements will be based on information available to the Administrator that may include, but is not limited to, monitoring results, review of operation and maintenance procedures, review of operation and maintenance records, and inspection of the affected source.

(c) Before September 12, 2019, if your affected source uses an emission capture system and add-on control device to comply with the emission limitations in § 63.4890, you must develop a written startup, shutdown, and malfunction plan (SSMP) according to the provisions in § 63.6(e)(3). The SSMP must address the startup, shutdown, and corrective actions in the event of a malfunction of the emission capture system or the add-on control device. The SSMP must also address any coating operation equipment that may cause increased emissions or that would affect capture efficiency if the process equipment malfunctions, such as conveyors that move parts among enclosures. A startup, shutdown, and malfunction plan is not required on and after September 12, 2019.

■ 42. Section 63.4910 is amended by revising paragraph (c)(9)(v) to read as follows:

§ 63.4910 What notifications must I submit?

* * * * *

(c) * * *

(9) * * *

(v) Before September 12, 2019, a statement of whether or not you developed and implemented the startup, shutdown, and malfunction plan required by § 63.4900. This statement is not required on and after September 12, 2019.

■ 43. Section 63.4920 is amended by revising paragraphs (a)(3) introductory text, (a)(3)(ii), (a)(4), (a)(5) introductory text, (a)(5) through (7), and (c) introductory text to read as follows:

§ 63.4920 What reports must I submit?

(a) * * *

(3) *General requirements.* The semiannual compliance report must contain the information specified in paragraphs (a)(3)(i) through (v) of this section, and the information specified in paragraphs (a)(4) through (7) of this section that is applicable to your affected source.

* * * * *

(ii) Statement by a responsible official with that official's name, title, and signature, certifying the truth, accuracy, and completeness of the report. Such certifications must also comply with the requirements of 40 CFR 70.5(d) or 40 CFR 71.5(d).

* * * * *

(4) *No deviations.* If there were no deviations from the emission limits, operating limits, and work practice standards in §§ 63.4890, 63.4892, and 63.4893, respectively, that apply to you, the semiannual compliance report must include an affirmative statement that there were no deviations from the emission limits, operating limits, or work practice standards in §§ 63.4890, 63.4892, and 63.4893 during the reporting period. If there were no deviations from these emission limitations, the semiannual compliance report must include the affirmative statement that is described in either § 63.4942(c), § 63.4952(c), or § 63.4962(f), as applicable. If you used the emission rate with add-on controls option and there were no periods during which the continuous parameter monitoring systems (CPMS) were out-of-control as specified in § 63.8(c)(7), the semiannual compliance report must include a statement that there were no periods during which the CPMS were out-of-control during the reporting period as specified in § 63.8(c)(7).

(5) *Deviations: Compliant material option.* If you used the compliant material option, and there was a deviation from the applicable emission limit in § 63.4890, the semiannual compliance report must contain the information in paragraph (a)(5)(i) or (ii) of this section, as applicable.

(i) Before September 12, 2019, the information in paragraphs (a)(5)(i)(A) through (D) of this section.

(A) Identification of each coating used that deviated from the emission limit, and of each thinner and cleaning material used that contained organic HAP, and the dates and time periods each was used.

(B) The calculation of the organic HAP content for each coating identified in paragraph (a)(5)(i) of this section, using Equation 2 of § 63.4941. You do not need to submit background data supporting this calculation, for example, information provided by materials suppliers or manufacturers, or test reports.

(C) The determination of mass fraction of organic HAP for each coating, thinner, and cleaning material identified in paragraph (a)(5)(i) of this section. You do not need to submit background data supporting this calculation, for example, information provided by materials suppliers or manufacturers, or test reports.

(D) A statement of the cause of each deviation.

(ii) On and after September 12, 2019, if there was a deviation from the applicable emission limit in § 63.4890, the semiannual compliance report must contain the information in paragraphs (a)(5)(ii)(A) through (E) of this section.

(A) Identification of each coating used that deviated from the emission limit, and of each thinner and cleaning material used that contained organic HAP, and the date, time, and duration each was used.

(B) The calculation of the organic HAP content for each coating identified in paragraph (a)(5)(ii)(A) of this section, using Equation 2 of § 63.4941. You do not need to submit background data supporting this calculation, for example, information provided by materials suppliers or manufacturers, or test reports.

(C) The determination of mass fraction of organic HAP for each coating, thinner, and cleaning material identified in paragraph (a)(5)(ii)(A) of this section. You do not need to submit background data supporting this calculation, for example, information provided by materials suppliers or manufacturers, or test reports.

(D) A statement of the cause of each deviation (including unknown cause, if applicable).

(E) The number of deviations and, for each deviation, a list of the affected source or equipment, an estimate of the quantity of each regulated pollutant emitted over any emission limit in § 63.4890, and a description of the method used to estimate the emissions.

(6) *Deviations: Emission rate without add-on controls option.* If you used the emission rate without add-on controls option, and there was a deviation from any applicable emission limit in § 63.4890, the semiannual compliance report must contain the information in paragraph (a)(6)(i) or (ii) of this section, as applicable. You do not need to submit background data supporting these calculations, for example, information provided by materials suppliers or manufacturers, or test reports.

(i) Before September 12, 2019, the information in paragraphs (a)(6)(i)(A) through (E) of this section.

(A) The beginning and ending dates of each compliance period during which the organic HAP emission rate exceeded the applicable emission limit in § 63.4890.

(B) The calculation of the total mass of organic HAP emissions for each month, using Equations 1 of § 63.4951.

(C) The calculation of the total volume of coating solids used each month, using Equation 2 of § 63.4951.

(D) The calculation of the organic HAP emission rate for each month, using Equation 3 of § 63.4951.

(E) A statement of the cause of each deviation.

(ii) On and after September 12, 2019, if there was a deviation from the applicable emission limit in § 63.4890, the semiannual compliance report must contain the information in paragraphs (a)(6)(ii)(A) through (F) of this section.

(A) The beginning and ending dates of each compliance period during which the organic HAP emission rate exceeded the applicable emission limit in § 63.4890.

(B) The calculation of the total mass of organic HAP emissions for each month, using Equation 1 of § 63.4951.

(C) The calculation of the total volume of coating solids used each month, using Equation 2 of § 63.4951.

(D) The calculation of the organic HAP emission rate for each month, using Equation 3 of § 63.4951.

(E) A statement of the cause of each deviation (including unknown cause, if applicable).

(F) The number of deviations, a list of the affected source or equipment, an estimate of the quantity of each regulated pollutant emitted over any emission limit in § 63.4890, and a description of the method used to estimate the emissions.

(7) *Deviations: Emission rate with add-on controls option.* If you used the emission rate with add-on controls option, and there was a deviation from any applicable emission limitation (including any periods when emissions bypassed the add-on control device and were diverted to the atmosphere), the semiannual compliance report must contain the information in paragraph (a)(7)(i) or (ii) of this section, as applicable.

(i) Before September 12, 2019, the information in paragraphs (a)(7)(i)(A) through (Q) of this section. This includes periods of startup, shutdown, and malfunction during which deviations occurred. You do not need to submit background data supporting these calculations, for example, information provided by materials suppliers or manufacturers, or test reports.

(A) The beginning and ending dates of each compliance period during which the organic HAP emission rate exceeded the applicable emission limit in § 63.4890.

(B) The calculation of the total mass of organic HAP emissions for the coatings, thinners, and cleaning materials used during each month, using Equation 1 of § 63.4951 and, if applicable, the calculation used to determine the total mass of organic HAP in waste materials sent or designated for shipment to a hazardous waste treatment, storage, and disposal facility (TSDF) for treatment or disposal during each compliance period, according to § 63.4951(e)(4).

(C) The calculation of the total volume of coating solids used, using Equation 2 of § 63.4951.

(D) The calculation of the mass of organic HAP emission reduction each month by emission capture systems and add-on control devices, using Equation 1 of § 63.4961, and Equation 3 of § 63.4961 for the calculation of the mass of organic HAP emission reduction for the coating operation controlled by solvent recovery systems each compliance period, as applicable.

(E) The calculation of the organic HAP emission rate for each compliance period, using Equation 4 of § 63.4961.

(F) The date and time that each malfunction started and stopped.

(G) A brief description of the CPMS.

(H) The date of the latest CPMS certification or audit.

(I) The date and time that each CPMS was inoperative, except for zero (low-level) and high-level checks.

(J) The date, time, and duration that each CPMS was out-of-control, including the information in § 63.8(c)(8).

(K) The date and time period of each deviation from an operating limit in Table 1 to this subpart; date and time period of any bypass of the add-on control device; and whether each deviation occurred during a period of startup, shutdown, or malfunction or during another period.

(L) A summary of the total duration of each deviation from an operating limit in Table 1 to this subpart and each bypass of the add-on control device during the semiannual reporting period and the total duration as a percent of the total affected source operating time during that semiannual reporting period.

(M) A breakdown of the total duration of the deviations from the operating limits in Table 1 to this subpart and bypasses of the add-on control device during the semiannual reporting period into those that were due to startup, shutdown, control equipment problems, process problems, other known causes, and other unknown causes.

(N) A summary of the total duration of CPMS downtime during the semiannual reporting period and the total duration of CPMS downtime as a percent of the total affected source operating time during that semiannual reporting period.

(O) A description of any changes in the CPMS, coating operation, emission capture system, or add-on control device since the last semiannual reporting period.

(P) For each deviation from the work practice standards, a description of the deviation; the date and time period of the deviation; and the actions you took to correct the deviation.

(Q) A statement of the cause of each deviation.

(ii) On and after September 12, 2019, the information in paragraphs (a)(7)(ii)(A) through (O), (Q), and (R) of this section if there was a deviation from the applicable emission limit in § 63.4890 or the applicable operating limit(s) in Table 1 to this subpart (including any periods when emissions bypassed the add-on control device and were diverted to the atmosphere) and the information in paragraph (a)(7)(ii)(P) of this section if there was a deviation from the work practice standards in § 63.4893(b).

(A) The beginning and ending dates of each compliance period during which the organic HAP emission rate exceeded the applicable emission limit in § 63.4890.

(B) The calculation of the total mass of organic HAP emissions for the coatings, thinners, and cleaning materials used during each month, using Equation 1 of § 63.4951 and, if applicable, the calculation used to determine the total mass of organic HAP in waste materials sent or designated for shipment to a hazardous waste treatment, storage, and disposal facility (TSDF) for treatment or disposal during each compliance period, according to § 63.4951(e)(4).

(C) The calculation of the total volume of coating solids used, using Equation 2 of § 63.4951.

(D) The calculation of the mass of organic HAP emission reduction each month by emission capture systems and add-on control devices, using Equation 1 of § 63.4961, and Equation 3 of § 63.4961 for the calculation of the mass of organic HAP emission reduction for the coating operation controlled by solvent recovery systems each compliance period, as applicable.

(E) The calculation of the organic HAP emission rate for each compliance period, using Equation 4 of § 63.4961.

(F) The date and time that each malfunction of the capture system or add-on control devices started and stopped.

(G) A brief description of the CPMS.

(H) The date of the latest CPMS certification or audit.

(I) For each instance that the CPMS was inoperative, except for zero (low-level) and high-level checks, the date, time, and duration that the CPMS was inoperative; the cause (including unknown cause) for the CPMS being inoperative, and descriptions of corrective actions taken.

(J) For each instance that the CPMS was out-of-control, as specified in § 63.8(c)(7), the date, time, and duration that the CPMS was out-of-control; the cause (including unknown cause) for the CPMS being out-of-control; and descriptions of corrective actions taken.

(K) The date, time, and duration of each deviation from an operating limit in Table 1 to this subpart; and the date, time, and duration of any bypass of the add-on control device.

(L) A summary of the total duration of each deviation from an operating limit in Table 1 to this subpart and each bypass of the add-on control device during the semiannual reporting period and the total duration as a percent of the total affected source operating time during that semiannual reporting period.

(M) A breakdown of the total duration of the deviations from the operating limits in Table 1 to this subpart and bypasses of the add-on control device during the semiannual reporting period into those that were due to control equipment problems, process problems, other known causes, and other unknown causes.

(N) A summary of the total duration of CPMS downtime during the semiannual reporting period and the total duration of CPMS downtime as a percent of the total affected source operating time during that semiannual reporting period.

(O) A description of any changes in the CPMS, coating operation, emission capture system, or add-on control

device since the last semiannual reporting period.

(P) For deviations from the work practice standards in § 63.4893(b), the number of deviations, and, for each deviation: A description of the deviation; the date, time, and duration of the deviation; and the actions taken to minimize emissions in accordance with § 63.4900(b). The description of the deviation must include a list of the affected sources or equipment for which a deviation occurred and the cause of the deviation (including unknown cause, if applicable).

(Q) For deviations from an emission limit in § 63.4890 or operating limit in Table 1 to this subpart, a statement of the cause of each deviation (including unknown cause, if applicable).

(R) For each deviation from an emission limit in § 63.4890 or operating limit in Table 1 to this subpart, a list of the affected sources or equipment for which a deviation occurred, an estimate of the quantity of each regulated pollutant emitted over any emission limit in § 63.4890, and a description of the method used to estimate the emissions.

* * * * *

(c) Before September 12, 2019, if you used the emission rate with add-on controls option and you had a startup, shutdown, or malfunction during the semiannual reporting period, you must submit the reports specified in paragraphs (c)(1) and (2) of this section. The reports specified in paragraphs (c)(1) and (2) of this section are not required on and after September 12, 2019.

* * * * *

■ 44. Section 63.4921 is added to read as follows:

§ 63.4921 What are my electronic reporting requirements?

(a) Beginning no later than June 13, 2019, you must submit the results of the performance test required § 63.4920(b) following the procedure specified in paragraphs (a)(1) through (3) of this section.

(1) For data collected using test methods supported by the EPA's Electronic Reporting Tool (ERT) as listed on the EPA's ERT website147 (*https://www.epa.gov/electronic-reporting-air-emissions/electronic-reporting-tool-ert*) at the time of the test, you must submit the results of the performance test to the EPA via the Compliance and Emissions Data Reporting Interface (CEDRI). The CEDRI interface can be accessed through the EPA's Central Data Exchange (CDX) (*https://cdx.epa.gov/*). Performance test data must be submitted in a file format generated through the use of the EPA's ERT or an alternate electronic file format consistent with the extensible markup language (XML) schema listed on the EPA's ERT website.

(2) For data collected using test methods that are not supported by the EPA's ERT as listed on the EPA's ERT website at the time of the test, you must submit the results of the performance test to the Administrator at the appropriate address listed in § 63.13, unless the Administrator agrees to or specifies an alternate reporting method.

(3) If you claim that some of the performance test information being submitted under paragraph (a)(1) of this section is confidential business information (CBI), you must submit a complete file generated through the use of the EPA's ERT or an alternate electronic file consistent with the XML schema listed on the EPA's ERT website, including information claimed to be CBI, on a compact disc, flash drive or other commonly used electronic storage medium to the EPA. The electronic medium must be clearly marked as CBI and mailed to U.S. EPA/OAQPS/CORE CBI Office, Attention: Group Leader, Measurement Policy Group, MD C404–02, 4930 Old Page Rd., Durham, NC 27703. The same ERT or alternate file with the CBI omitted must be submitted to the EPA via the EPA's CDX as described in paragraph (a)(1) of this section.

(b) Beginning on March 15, 2021, the owner or operator shall submit the initial notifications required in § 63.9(b) and the notification of compliance status required in § 63.9(h) and § 63.4910(c) to the EPA via CEDRI. The CEDRI interface can be accessed through the EPA's CDX (*https://cdx.epa.gov*). The owner or operator must upload to CEDRI an electronic copy of each applicable notification in portable document format (PDF). The applicable notification must be submitted by the deadline specified in this subpart, regardless of the method in which the reports are submitted. Owners or operators who claim that some of the information required to be submitted via CEDRI is CBI shall submit a complete report generated using the appropriate form in CEDRI or an alternate electronic file consistent with the extensible markup language (XML) schema listed on the EPA's CEDRI website, including information claimed to be CBI, on a compact disc, flash drive, or other commonly used electronic storage medium to the EPA. The electronic medium shall be clearly marked as CBI and mailed to U.S. EPA/OAQPS/CORE CBI Office, Attention: Group Leader, Measurement Policy Group, MD C404–02, 4930 Old Page Rd., Durham, NC 27703. The same file with the CBI omitted shall be submitted to the EPA via the EPA's CDX as described earlier in this paragraph.

(c) Beginning on March 15, 2021, or once the reporting template has been available on the CEDRI website for 1 year, whichever date is later, the owner or operator shall submit the semiannual compliance report required in § 63.4920 to the EPA via CEDRI. The CEDRI interface can be accessed through the EPA's CDX (*https://cdx.epa.gov*).). The owner or operator must use the appropriate electronic template on the CEDRI website for this subpart or an alternate electronic file format consistent with the XML schema listed on the CEDRI website (*https://www.epa.gov/electronic-reporting-air-emissions/compliance-and-emissions-data-reporting-interface-cedri*). The date report templates become available will be listed on the CEDRI website. If the reporting form for the semiannual compliance report specific to this subpart is not available in CEDRI at the time that the report is due, you must submit the report to the Administrator at the appropriate addresses listed in § 63.13. Once the form has been available in CEDRI for 1 year, you must begin submitting all subsequent reports via CEDRI. The reports must be submitted by the deadlines specified in this subpart, regardless of the method in which the reports are submitted. Owners or operators who claim that some of the information required to be submitted via CEDRI is CBI shall submit a complete report generated using the appropriate form in CEDRI or an alternate electronic file consistent with the XML schema listed on the EPA's CEDRI website, including information claimed to be CBI, on a compact disc, flash drive, or other commonly used electronic storage medium to the EPA. The electronic medium shall be clearly marked as CBI and mailed to U.S. EPA/OAQPS/CORE CBI Office, Attention: Group Leader, Measurement Policy Group, MD C404–02, 4930 Old Page Rd., Durham, NC 27703. The same file with the CBI omitted shall be submitted to the EPA via the EPA's CDX as described earlier in this paragraph.

(d) If you are required to electronically submit a report through CEDRI in the EPA's CDX, and due to a planned or actual outage of either the EPA's CEDRI or CDX systems within the period of time beginning 5 business days prior to the date that the submission is due, you will be or are precluded from accessing CEDRI or CDX and submitting a required report within

the time prescribed, you may assert a claim of EPA system outage for failure to timely comply with the reporting requirement. You must submit notification to the Administrator in writing as soon as possible following the date you first knew, or through due diligence should have known, that the event may cause or caused a delay in reporting. You must provide to the Administrator a written description identifying the date, time and length of the outage; a rationale for attributing the delay in reporting beyond the regulatory deadline to the EPA system outage; describe the measures taken or to be taken to minimize the delay in reporting; and identify a date by which you propose to report, or if you have already met the reporting requirement at the time of the notification, the date you reported. In any circumstance, the report must be submitted electronically as soon as possible after the outage is resolved. The decision to accept the claim of EPA system outage and allow an extension to the reporting deadline is solely within the discretion of the Administrator.

(e) If you are required to electronically submit a report through CEDRI in the EPA's CDX and a force majeure event is about to occur, occurs, or has occurred or there are lingering effects from such an event within the period of time beginning 5 business days prior to the date the submission is due, the owner or operator may assert a claim of force majeure for failure to timely comply with the reporting requirement. For the purposes of this section, a force majeure event is defined as an event that will be or has been caused by circumstances beyond the control of the affected facility, its contractors, or any entity controlled by the affected facility that prevents you from complying with the requirement to submit a report electronically within the time period prescribed. Examples of such events are acts of nature (*e.g.,* hurricanes, earthquakes, or floods), acts of war or terrorism, or equipment failure or safety hazard beyond the control of the affected facility (*e.g.,* large scale power outage). If you intend to assert a claim of force majeure, you must submit notification to the Administrator in writing as soon as possible following the date you first knew, or through due diligence should have known, that the event may cause or caused a delay in reporting. You must provide to the Administrator a written description of the force majeure event and a rationale for attributing the delay in reporting beyond the regulatory deadline to the force majeure event; describe the measures taken or to be taken to minimize the delay in reporting; and identify a date by which you propose to report, or if you have already met the reporting requirement at the time of the notification, the date you reported. In any circumstance, the reporting must occur as soon as possible after the force majeure event occurs. The decision to accept the claim of force majeure and allow an extension to the reporting deadline is solely within the discretion of the Administrator.

■ 45. Section 63.4930 is amended by revising paragraphs (j), (k) introductory text, and (k)(1) and (2) to read as follows:

§ 63.4930 What records must I keep?

* * * * *

(j) Before September 12, 2019, you must keep records of the date, time, and duration of each deviation. On and after September 12, 2019, for each deviation from an emission limitation reported under § 63.4920(a)(5) through (7), you must keep a record of the information specified in paragraphs (j)(1) through (4) of this section, as applicable.

(1) The date, time, and duration of the deviation, as reported under § 63.4920(a)(5) through (7).

(2) A list of the affected sources or equipment for which the deviation occurred and the cause of the deviation, as reported under § 63.4920(a)(5) through (7).

(3) An estimate of the quantity of each regulated pollutant emitted over any applicable emission limit in § 63.4890 or any applicable operating limit(s) in Table 1 to this subpart, and a description of the method used to calculate the estimate, as reported under § 63.4920(a)(5) through (7).

(4) A record of actions taken to minimize emissions in accordance with § 63.4900(b) and any corrective actions taken to return the affected unit to its normal or usual manner of operation.

(k) If you use the emission rate with add-on controls option, you must also keep the records specified in paragraphs (k)(1) through (8) of this section.

(1) Before September 12, 2019, for each deviation, a record of whether the deviation occurred during a period of startup, shutdown, or malfunction. The record in this paragraph (k)(1) is not required on and after September 12, 2019.

(2) Before September 12, 2019, the records in § 63.6(e)(3)(iii) through (v) related to startup, shutdown, and malfunction. The records in this paragraph (k)(2) are not required on and after September 12, 2019.

* * * * *

■ 46. Section 63.4931 is amended by revising paragraph (a) to read as follows:

§ 63.4931 In what form and for how long must I keep my records?

(a) Your records must be in a form suitable and readily available for expeditious review, according to § 63.10(b)(1). Where appropriate, the records may be maintained as electronic spreadsheets or as a database. Any records required to be maintained by this subpart that are in reports that were submitted electronically via the EPA's CEDRI may be maintained in electronic format. This ability to maintain electronic copies does not affect the requirement for facilities to make records, data, and reports available upon request to a delegated air agency or the EPA as part of an on-site compliance evaluation.

* * * * *

■ 47. Section 63.4941 is amended by revising paragraphs (a)(1)(i), (a)(2) and (4), and (b)(1), the definitions of ''$M_{volatiles}$'' and ''D_{avg}'' in Equation 1 in paragraph (b)(3), and paragraphs (c) and (e) to read as follows:

§ 63.4941 How do I demonstrate initial compliance with the emission limitations?

* * * * *

(a) * * *

(1) * * *

(i) Count each organic HAP in Table 5 to this subpart that is measured to be present at 0.1 percent by mass or more and at 1.0 percent by mass or more for other organic HAP compounds. For example, if toluene (not listed in Table 5 to this subpart) is measured to be 0.5 percent of the material by mass, you do not have to count it. Express the mass fraction of each organic HAP you count as a value truncated to four places after the decimal point (for example, 0.3791).

* * * * *

(2) *Method 24 in appendix A–7 of part 60.* For coatings, you may use Method 24 to determine the mass fraction of nonaqueous volatile matter and use that value as a substitute for mass fraction of organic HAP. As an alternative to using Method 24, you may use ASTM D2369–10 (R2015), ''Test Method for Volatile Content of Coatings'' (incorporated by reference, *see* § 63.14).

* * * * *

(4) *Information from the supplier or manufacturer of the material.* You may rely on information other than that generated by the test methods specified in paragraphs (a)(1) through (3) of this section, such as manufacturer's formulation data, if it represents each organic HAP in Table 5 to this subpart that is present at 0.1 percent by mass or

more and at 1.0 percent by mass or more for other organic HAP compounds. For example, if toluene (not listed in Table 5 to this subpart) is 0.5 percent of the material by mass, you do not have to count it. If there is a disagreement between such information and results of a test conducted according to paragraphs (a)(1) through (3) of this section, then the test method results will take precedence.

* * * * *

(b) * * *

(1) *Test results.* You may use ASTM D2697–03 (R2014), ''Standard Test Method for Volume Nonvolatile Matter in Clear or Pigmented Coatings'', or D6093–97 (R2016), ''Standard Test Method for Percent Volume Nonvolatile Matter in Clear or Pigmented Coatings Using a Helium Gas Pycnometer'' (both incorporated by reference, *see* § 63.14), to determine the volume fraction of coating solids for each coating. Divide the nonvolatile volume percent obtained with the methods by 100 to calculate volume fraction of coating solids. Alternatively, you may use another test method once you obtain approval from the Administrator according to the requirements of § 63.7(f).

* * * * *

(3) * * *

$M_{volatiles}$ = Total volatile matter content of the coating, including HAP, volatile organic compounds (VOC), water, and exempt compounds, determined according to Method 24 in appendix A–7 of part 60, or according to ASTM D2369—10 (R2015) Standard Test Method for Volatile Content of Coatings (incorporated by reference, *see* § 63.14), grams volatile matter per liter coating.

D_{avg} = Average density of volatile matter in the coating, grams volatile matter per liter volatile matter, determined from test results using ASTM D1475–13, ''Standard Test Method for Density of Liquid Coatings, Inks, and Related Products'' (incorporated by reference, *see* § 63.14), information from the supplier or manufacturer of the material, or reference sources providing density or specific gravity data for pure materials. If there is disagreement between ASTM D1475–13 test results and other information sources, the test results will take precedence.

(c) *Determine the density of each coating.* You must determine the density of each coating used during the compliance period from test results using ASTM D1475–13, ''Standard Test Method for Density of Liquid Coatings, Inks, and Related Products'' (incorporated by reference, *see* § 63.14), or information from the supplier or manufacturer of the material. If there is disagreement between ASTM D1475–13 test results and the supplier's or manufacturer's information, the test results will take precedence.

* * * * *

(e) *Compliance demonstration.* The calculated organic HAP content for each coating used during the initial compliance period must be less than or equal to the applicable emission limit in § 63.4890 and each thinner and cleaning material used during the initial compliance period must contain no organic HAP, determined according to paragraph (a) of this section. You must keep all records required by §§ 63.4930 and 63.4931. As part of the Notification of Compliance Status required in § 63.4910(c) and the semiannual compliance reports required in § 63.4920, you must identify each coating operation and group of coating operations for which you used the compliant material option. If there were no deviations from the emission limit, include a statement that each coating operation was in compliance with the emission limitations during the initial compliance period because it used no coatings for which the organic HAP content exceeded the applicable emission limit in § 63.4890, and it used no thinners or cleaning materials that contained organic HAP.

■ 48. Section 63.4951 is amended by revising paragraph (c) to read as follows:

§ 63.4951 How do I demonstrate initial compliance with the emission limitations?

* * * * *

(c) *Determine the density of each material.* You must determine the density of each coating, thinner, and cleaning material used during the compliance period according to the requirements in § 63.4941(c).

* * * * *

■ 49. Section 63.4960 is amended by revising the section heading to read as follows:

§ 63.4960 By what date must I conduct initial performance tests and other initial compliance demonstrations?

* * * * *

■ 50. Section 63.4961 is amended by revising paragraphs (h) introductory text and (j)(3) to read as follows:

§ 63.4961 How do I demonstrate initial compliance?

* * * * *

(h) *Calculate the organic HAP emission reduction for controlled coating operations not using liquid-liquid material balance.* For each controlled coating operation using an emission capture system and add-on control device other than a solvent recovery system for which you conduct liquid-liquid material balances, calculate the organic HAP emission reduction, using Equation 1 of this section. The calculation applies the emission capture system efficiency and add-on control device efficiency to the mass of organic HAP contained in the coatings, thinners, and cleaning materials that are used in the coating operation served by the emission capture system and add-on control device during the compliance period. For any period of time a deviation specified in § 63.4962(c) or (d) occurs in the controlled coating operation, you must assume zero efficiency for the emission capture system and add-on control device. Equation 1 of this section treats the materials used during such a deviation as if they were used on an uncontrolled coating operation for the time period of the deviation:

$$H_R = (A_I + B_I + C_I - R_w)\left(\frac{CE}{100} \times \frac{DRE}{100}\right) + H_{unc} \qquad \text{(Eq. 1)}$$

Where:

H_R = Mass of organic HAP emission reduction for the controlled coating operation during the compliance period, kg.

A_I = Total mass of organic HAP in the coatings used in the controlled coating operation during the compliance period, excluding coatings used during deviations, kg, as calculated in Equation 1A of this section.

B_I = Total mass of organic HAP in the thinners used in the controlled coating operation during the compliance period, excluding thinners used during deviations, kg, as calculated in Equation 1B of this section.

C_I = Total mass of organic HAP in the cleaning materials used in the controlled coating operation during the compliance period, excluding cleaning materials used during deviations, kg, as calculated in Equation 1C of this section.

R_w = Total mass of organic HAP in waste materials sent or designated for shipment to a hazardous waste TSDF for treatment

or disposal during the compliance period, kg, determined according to § 63.4951(e)(4). The mass of any waste material reused during the same compliance period may not be included in R_w. (You may assign a value of zero to R_w if you do not wish to use this allowance.)

CE = Capture efficiency of the emission capture system vented to the add-on control device, percent. Use the test methods and procedures specified in §§ 63.4963 and 63.4964 to measure and record capture efficiency.

DRE = Organic HAP destruction or removal efficiency of the add-on control device, percent. Use the test methods and procedures in §§ 63.4963 and 63.4965 to measure and record the organic HAP destruction or removal efficiency.

H_{unc} = Total mass of organic HAP in the coatings, thinners, and cleaning materials used during all deviations specified in § 63.4962(c) and (d) that occurred during the compliance period in the controlled coating operation, kg, as calculated in Equation 1D of this section.

* * * * *

(j) * * *

(3) Determine the mass fraction of volatile organic matter for each coating, thinner, and cleaning material used in the coating operation controlled by the solvent recovery system during the compliance period. You may determine the volatile organic matter mass fraction using Method 24 in appendix A–7 of part 60, ASTM D2369–10 (R2015), ''Test Method for Volatile Content of Coatings'' (incorporated by reference, *see* § 63.14), or an EPA-approved alternative method. Alternatively, you may use information provided by the manufacturer or supplier of the coating. In the event of any inconsistency between information provided by the manufacturer or supplier and the results of Method 24, ASTM D2369–10 (R2015), or an approved alternative method, the test method results will govern.

* * * * *

■ 51. Section 63.4962 is amended by revising the section heading and paragraph (c) introductory text and adding paragraph (c)(3) to read as follows:

§ 63.4962 How do I conduct periodic performance tests and demonstrate continuous compliance with the emission limitations?

* * * * *

(c) You must demonstrate continuous compliance with each operating limit required by § 63.4892 that applies to you, as specified in Table 1 to this subpart, and you must conduct periodic performance tests as specified in paragraph (c)(3) of this section.

* * * * *

(3) Except for solvent recovery systems for which you conduct liquid-liquid material balances according to § 63.4961(j), within 5 years following the previous performance test, you must conduct according to the procedures in §§ 63.4963, 63.4964, and 63.4965 a periodic performance test of each capture system and add-on control device used, and you must establish the operating limits required by § 63.4892. You must conduct the first periodic performance test and establish the operating limits required by § 63.4892 before March 15, 2022, unless you are already required to complete periodic performance tests as a requirement of renewing your facility's operating permit under 40 CFR part 70 or 40 CFR part 71 and have conducted a performance test on or after March 15, 2017. Thereafter you must conduct a performance test no later than 5 years following the previous performance test. Operating limits must be confirmed or reestablished during each performance test.

* * * * *

■ 52. Section 63.4963 is amended by revising paragraphs (a) introductory text and (a)(1) to read as follows:

§ 63.4963 What are the general requirements for performance tests?

(a) You must conduct each performance test required by §§ 63.4960 and 63.4962 according to the requirements in this section unless you obtain a waiver of the performance test according to the provisions in § 63.7(h).

(1) *Representative coating operation operating conditions.* You must conduct the performance test under representative operating conditions for the coating operation. Operations during periods of startup, shutdown, or nonoperation do not constitute representative conditions for purposes of conducting a performance test. The owner or operator may not conduct performance tests during periods of malfunction. You must record the process information that is necessary to document operating conditions during the test and explain why the conditions represent normal operation. Upon request, you must make available to the Administrator such records as may be necessary to determine the conditions of performance tests.

* * * * *

■ 53. Section 63.4965 is amended by revising paragraphs (a)(1) through (4) and paragraph (b) to read as follows:

§ 63.4965 How do I determine the add-on control device emission destruction or removal efficiency?

* * * * *

(a) * * *

(1) Use Method 1 or 1A in appendix A–1 of part 60, as appropriate, to select sampling sites and velocity traverse points.

(2) Use Method 2, 2A, 2C, 2D, 2F in appendix A–1, or Method 2G in appendix A–2, of part 60, as appropriate, to measure gas volumetric flow rate.

(3) Use Method 3, 3A, or 3B in appendix A–2 of part 60, as appropriate, for gas analysis to determine dry molecular weight. You may also use as an alternative to Method 3B, the manual method for measuring the oxygen, carbon dioxide, and carbon monoxide content of exhaust gas in ANSI/ASME PTC 19.10–1981, ''Flue and Exhaust Gas Analyses [Part 10, Instruments and Apparatus]'' (incorporated by reference, *see* § 63.14).

(4) Use Method 4 in appendix A–3 of part 60 to determine stack gas moisture.

* * * * *

(b) Measure total gaseous organic mass emissions as carbon at the inlet and outlet of the add-on control device simultaneously, using either Method 25 or 25A in appendix A–7 of part 60, as specified in paragraphs (b)(1) through (3) of this section. You must use the same method for both the inlet and outlet measurements. You may use Method 18 in appendix A–6 of part 60 to subtract methane emissions from measured total gaseous organic mass emissions as carbon.

* * * * *

■ 54. Section 63.4966 is amended by revising the section heading, introductory text, and paragraph (e)(1) to read as follows:

§ 63.4966 How do I establish the emission capture system and add-on control device operating limits during performance tests?

During the performance tests required by §§ 63.4960 and 63.4962, and described in §§ 63.4963, 63.4964, and 63.4965, you must establish the operating limits required by § 63.4892 according to this section, unless you have received approval for alternative monitoring and operating limits under § 63.8(f) as specified in § 63.4892.

* * * * *

(e) * * *

(1) During the capture efficiency determination required by §§ 63.4960 and 63.4962, and described in §§ 63.4963 and 63.4964, you must monitor and record either the gas volumetric flow rate or the duct static pressure for each separate capture device in your emission capture system at least once every 15 minutes during each of the three test runs at a point in

the duct between the capture device and the add-on control device inlet.

* * * * *

■ 55. Section 63.4967 is amended by revising paragraphs (a)(4) and (5) and (c)(3) introductory text to read as follows:

§ 63.4967 What are the requirements for continuous parameter monitoring system installation, operation, and maintenance?

(a) * * *

(4) You must maintain the CPMS at all times in accordance with § 63.4900(b) and have readily available necessary parts for routine repairs of the monitoring equipment.

(5) Before September 12, 2019, you must operate the CPMS and collect emission capture system and add-on control device parameter data at all times that a controlled coating operation is operating, except during monitoring malfunctions, repairs to correct the monitor malfunctions, and required quality assurance or control activities (including, if applicable, calibration checks and required zero and span adjustments). On and after September 12, 2019, you must operate the CPMS and collect emission capture system and add-on control device parameter data at all times in accordance with § 63.4900(b).

* * * * *

(c) * * *

(3) For each gas temperature monitoring device, you must meet the requirements in paragraphs (a) and (c)(3)(i) through (vi) of this section for each gas temperature monitoring device. For the purposes of this paragraph (c)(3), a thermocouple is part of the temperature sensor.

* * * * *

■ 56. Section 63.4981 is amended by revising the definition for ''Deviation'' to read as follows:

§ 63.4981 What definitions apply to this subpart?

* * * * *

Deviation means:

(1) Before September 12, 2019, any instance in which an affected source subject to this subpart or an owner or operator of such a source:

(i) Fails to meet any requirement or obligation established by this subpart including but not limited to any emission limit, or operating limit, or work practice standard;

(ii) Fails to meet any term or condition that is adopted to implement an applicable requirement in this subpart and that is included in the operating permit for any affected source required to obtain such a permit; or

(iii) Fails to meet any emission limit, or operating limit, or work practice standard in this subpart during startup, shutdown, or malfunction regardless of whether or not such failure is permitted by this subpart; and

(2) On and after September 12, 2019, any instance in which an affected source subject to this subpart or an owner or operator of such a source:

(i) Fails to meet any requirement or obligation established by this subpart including but not limited to any emission limit, or operating limit, or work practice standard; or

(ii) Fails to meet any term or condition that is adopted to implement an applicable requirement in this subpart and that is included in the operating permit for any affected source required to obtain such a permit.

* * * * *

■ 57. Table 2 to subpart RRRR of part 63 is revised to read as follows:

TABLE 2 TO SUBPART RRRR OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART RRRR

[You must comply with the applicable General Provisions requirements according to the following table:]

Citation	Subject	Applicable to subpart	Explanation
§ 63.1(a)(1)–(12)	General Applicability	Yes	
§ 63.1(b)(1)–(3)	Initial Applicability Determination	Yes	Applicability to subpart RRRR is also specified in § 63.4881.
§ 63.1(c)(1)	Applicability After Standard Established	Yes	
§ 63.1(c)(2)–(3)	Applicability of Permit Program for Area Sources.	No	Area sources are not subject to subpart RRRR.
§ 63.1(c)(4)–(5)	Extensions and Notifications	Yes	
§ 63.1(e)	Applicability of Permit Program Before Relevant Standard is Set.	Yes	
§ 63.2	Definitions	Yes	Additional definitions are specified in § 63.4981.
§ 63.3(a)–(c)	Units and Abbreviations	Yes	
§ 63.4(a)(1)–(5)	Prohibited Activities	Yes	
§ 63.4(b)–(c)	Circumvention/Severability	Yes	
§ 63.5(a)	Construction/Reconstruction	Yes	
§ 63.5(b)(1)–(6)	Requirements for Existing, Newly Constructed, and Reconstructed Sources.	Yes	
§ 63.5(d)	Application for Approval of Construction/Reconstruction.	Yes	
§ 63.5(e)	Approval of Construction/Reconstruction	Yes	
§ 63.5(f)	Approval of Construction/Reconstruction Based on Prior State Review.	Yes	
§ 63.6(a)	Compliance With Standards and Maintenance Requirements—Applicability.	Yes	
§ 63.6(b)(1)–(7)	Compliance Dates for New and Reconstructed Sources.	Yes	Section 63.4883 specifies the compliance dates.
§ 63.6(c)(1)–(5)	Compliance Dates for Existing Sources	Yes	Section 63.4883 specifies the compliance dates.
§ 63.6(e)(1)(i)	Operation and Maintenance	Yes, before September 12, 2019. No, on and after September 12, 2019.	*See* § 63.4900(b) for general duty requirement.

TABLE 2 TO SUBPART RRRR OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART RRRR—Continued

[You must comply with the applicable General Provisions requirements according to the following table:]

Citation	Subject	Applicable to subpart	Explanation
§ 63.6(e)(1)(ii)	Operation and Maintenance	Yes, before September 12, 2019. No, on and after September 12, 2019.	
§ 63.6(e)(1)(iii)	Operation and Maintenance	Yes	
§ 63.6(e)(3)	Startup, shutdown, and malfunction Plan (SSMP).	Yes, before September 12, 2019. No, on and after September 12, 2019.	
§ 63.6(f)(1)	Compliance Except During Startup, Shutdown, and Malfunction.	Yes, before September 12, 2019. No, on and after September 12, 2019.	
§ 63.6(f)(2)–(3)	Methods for Determining Compliance	Yes	
§ 63.6(g)(1)–(3)	Use of Alternative Standards	Yes	
§ 63.6(h)	Compliance With Opacity/Visible Emission Standards.	No	Subpart RRRR does not establish opacity standards and does not require continuous opacity monitoring systems (COMS).
§ 63.6(i)(1)–(16)	Extension of Compliance	Yes	
§ 63.6(j)	Presidential Compliance Exemption	Yes	
§ 63.7(a)(1)	Performance Test Requirements—Applicability.	Yes	Applies to all affected sources using an add-on control device to comply with the standards. Additional requirements for performance testing are specified in §§ 63.4963, 63.4964, and 63.4965.
§ 63.7(a)(2)	Performance Test Requirements—Dates	Yes	Applies only to performance tests for capture system and control device efficiency at sources using these to comply with the standards. Section 63.4960 specifies the schedule for performance test requirements that are earlier than those specified in § 63.7(a)(2).
§ 63.7(a)(3)	Performance Tests Required by the Administrator.	Yes	
§ 63.7(b)–(d)	Performance Test Requirements—Notification, Quality Assurance, Facilities Necessary Safe Testing, Conditions During Test.	Yes	Applies only to performance tests for capture system and add-on control device efficiency at sources using these to comply with the standards.
§ 63.7(e)(1)	Conduct of performance tests	Yes, before September 12, 2019. No, on and after September 12, 2019.	*See* § 63.4963(a).
§ 63.7(e)(2)–(4)	Conduct of performance tests	Yes..	
§ 63.7(f)	Performance Test Requirements—Use of Alternative Test Method.	Yes	Applies to all test methods except those used to determine capture system efficiency.
§ 63.7(g)–(h)	Performance Test Requirements—Data Analysis, Recordkeeping, Reporting, Waiver of Test.	Yes	Applies only to performance tests for capture system and add-on control device efficiency at sources using these to comply with the standards.
§ 63.8(a)(1)–(3)	Monitoring Requirements—Applicability	Yes	Applies only to monitoring of capture system and add-on control device efficiency at sources using these to comply with the standards. Additional requirements for monitoring are specified in § 63.4967.
§ 63.8(a)(4)	Additional Monitoring Requirements	No	Subpart RRRR does not have monitoring requirements for flares.
§ 63.8(b)	Conduct of Monitoring	Yes	
§ 63.8(c)(1)	Continuous Monitoring Systems (CMS) Operation and Maintenance.	Yes, before September 12, 2019. No, on and after September 12, 2019.	
§ 63.8(c)(2)–(3)	CMS Operation and Maintenance	Yes	Applies only to monitoring of capture system and add-on control device efficiency at sources using these to comply with the standards. Additional requirements for CMS operations and maintenance are specified in § 63.4967.

TABLE 2 TO SUBPART RRRR OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART RRRR—Continued

[You must comply with the applicable General Provisions requirements according to the following table:]

Citation	Subject	Applicable to subpart	Explanation
§ 63.8(c)(4)	CMS	No	Section 63.4967 specifies the requirements for the operation of CMS for capture systems and add-on control devices at sources using these to comply.
§ 63.8(c)(5)	COMS	No	Subpart RRRR does not have opacity or visible emissions standards.
§ 63.8(c)(6)	CMS Requirements	No	Section 63.4967 specifies the requirements for monitoring systems for capture systems and add-on control devices at sources using these to comply.
§ 63.8(c)(7)	CMS Out-of-Control Periods	Yes	
§ 63.8(c)(8)	CMS Out-of-Control Periods Reporting	No	Section 63.4920 requires reporting of CMS out-of-control periods.
§ 63.8(d)–(e)	Quality Control Program and CMS Performance Evaluation.	No	Subpart RRRR does not require the use of CEMS.
§ 63.8(f)(1)–(5)	Use of an Alternative Monitoring Method	Yes..	
§ 63.8(f)(6)	Alternative to Relative Accuracy Test	No	Subpart RRRR does not require the use of CEMS.
§ 63.8(g)(1)–(5)	Data Reduction	No	Sections 63.4966 and 63.4967 specify monitoring data reduction.
§ 63.9(a)–(d)	Notification Requirements	Yes	
§ 63.9(e)	Notification of Performance Test	Yes	Applies only to capture system and add-on control device performance tests at sources using these to comply with the standards.
§ 63.9(f)	Notification of Visible Emissions/Opacity Test.	No	Subpart RRRR does not have opacity or visible emission standards.
§ 63.9(g)(1)–(3)	Additional Notifications When Using CMS	No	Subpart RRRR does not require the use of CEMS.
§ 63.9(h)	Notification of Compliance Status	Yes	Section 63.4910 specifies the dates for submitting the notification of compliance status.
§ 63.9(i)	Adjustment of Submittal Deadlines	Yes	
§ 63.9(j)	Change in Previous Information	Yes	
§ 63.10(a)	Recordkeeping/Reporting—Applicability and General Information.	Yes	
§ 63.10(b)(1)	General Recordkeeping Requirements	Yes	Additional requirements are specified in §§ 63.4930 and 63.4931.
§ 63.10(b)(2)(i)	Recordkeeping of Occurrence and Duration of Startups and Shutdowns.	Yes, before September 12, 2019. No, on and after September 12, 2019.	*See* § 63.4930(j).
§ 63.10(b)(2)(ii)	Recordkeeping of Failures to Meet Standards.	Yes, before September 12, 2019. No, on and after September 12, 2019.	*See* § 63.4930(j).
§ 63.10(b)(2)(iii)	Recordkeeping Relevant to Maintenance of Air Pollution Control and Monitoring Equipment.	Yes	
§ 63.10(b)(2)(iv)– (v)	Actions Taken to Minimize Emissions During SSM.	Yes, before September 12, 2019.. No, on and after September 12, 2019.	*See* § 63.4930(j)(4) for a record of actions taken to minimize emissions during a deviation from the standard.
§ 63.10(b)(2)(vi)	Recordkeeping for CMS malfunctions	Yes, before September 12, 2019. No, on and after September 12, 2019.	*See* § 63.4930(j) for records of periods of deviation from the standard, including instances where a CMS is inoperative or out-of-control.
§ 63.10(b)(2)(vii)–(xi)	Records	Yes	
§ 63.10(b)(2)(xii)	Records	Yes	
§ 63.10(b)(2)(xiii)		No	Subpart RRRR does not require the use of CEMS.
§ 63.10(b)(2)(xiv)		Yes	
§ 63.10(b)(3)	Recordkeeping Requirements for Applicability Determinations.	Yes	
§ 63.10(c)(1)–(6)	Additional Recordkeeping Requirements for Sources with CMS.	Yes	
§ 63.10(c)(7)–(8)	Additional Recordkeeping Requirements for Sources with CMS.	No	*See* § 63.4930(j)(1) for records of periods of deviation from the standard, including instances where a CMS is inoperative or out-of-control.

TABLE 2 TO SUBPART RRRR OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART RRRR—Continued

[You must comply with the applicable General Provisions requirements according to the following table:]

Citation	Subject	Applicable to subpart	Explanation
§ 63.10(c)(10)–(14)	Additional Recordkeeping Requirements for Sources with CMS.	Yes	
§ 63.10(c)(15)	Records Regarding the SSMP	Yes, before September 12, 2019. No, on and after September 12, 2019.	
§ 63.10(d)(1)	General Reporting Requirements	Yes	Additional requirements are specified in § 63.4920.
§ 63.10(d)(2)	Report of Performance Test Results	Yes	Additional requirements are specified in § 63.4920(b).
§ 63.10(d)(3)	Reporting Opacity or Visible Emissions Observations.	No	Subpart RRRR does not require opacity or visible emissions observations.
§ 63.10(d)(4)	Progress Reports for Sources With Compliance Extensions.	Yes	
§ 63.10(d)(5)	Startup, Shutdown, and Malfunction Reports.	Yes, before September 12, 2019. No, on and after September 12, 2019.	*See* § 63.4920(a)(7).
§ 63.10(e)(1)–(2)	Additional CMS Reports	No	Subpart RRRR does not require the use of CEMS.
§ 63.10(e)(3)	Excess Emissions/CMS Performance Reports.	No	Section 63.4920(a) specifies the contents of periodic compliance reports.
§ 63.10(e)(4)	COMS Data Reports	No	Subpart RRRR does not specify requirements for opacity or COMS.
§ 63.10(f)	Recordkeeping/Reporting Waiver	Yes	
§ 63.11	Control Device Requirements/Flares	No	Subpart RRRR does not specify use of flares for compliance.
§ 63.12	State Authority and Delegations	Yes	
§ 63.13	Addresses	Yes	
§ 63.14	Incorporation by Reference	Yes	
§ 63.15	Availability of Information/Confidentiality	Yes	

■ 58. Table 5 to subpart RRRR of part 63 is added to read as follows:

TABLE 5 TO SUBPART RRRR OF PART 63—LIST OF HAZARDOUS AIR POLLUTANTS THAT MUST BE COUNTED TOWARD TOTAL ORGANIC HAP CONTENT IF PRESENT AT 0.1 PERCENT OR MORE BY MASS

Chemical name	CAS No.
1,1,2,2-Tetrachloroethane	79–34–5
1,1,2-Trichloroethane	79–00–5
1,1-Dimethylhydrazine	57–14–7
1,2-Dibromo-3-chloropropane	96–12–8
1,2-Diphenylhydrazine	122–66–7
1,3-Butadiene	106–99–0
1,3-Dichloropropene	542–75–6
1,4-Dioxane	123–91–1
2,4,6-Trichlorophenol	88–06–2
2,4/2,6-Dinitrotoluene (mixture)	25321–14–6
2,4-Dinitrotoluene	121–14–2
2,4-Toluene diamine	95–80–7
2-Nitropropane	79–46–9
3,3'-Dichlorobenzidine	91–94–1
3,3'-Dimethoxybenzidine	119–90–4
3,3'-Dimethylbenzidine	119–93–7
4,4'-Methylene bis(2-chloroaniline)	101–14–4
Acetaldehyde	75–07–0
Acrylamide	79–06–1
Acrylonitrile	107–13–1
Allyl chloride	107–05–1
alpha-Hexachlorocyclohexane (a-HCH)	319–84–6
Aniline	62–53–3
Benzene	71–43–2
Benzidine	92–87–5
Benzotrichloride	98–07–7
Benzyl chloride	100–44–7
beta-Hexachlorocyclohexane (b-HCH)	319–85–7

TABLE 5 TO SUBPART RRRR OF PART 63—LIST OF HAZARDOUS AIR POLLUTANTS THAT MUST BE COUNTED TOWARD TOTAL ORGANIC HAP CONTENT IF PRESENT AT 0.1 PERCENT OR MORE BY MASS—Continued

Chemical name	CAS No.
Bis(2-ethylhexyl)phthalate	117–81–7
Bis(chloromethyl)ether	542–88–1
Bromoform	75–25–2
Captan	133–06–2
Carbon tetrachloride	56–23–5
Chlordane	57–74–9
Chlorobenzilate	510–15–6
Chloroform	67–66–3
Chloroprene	126–99–8
Cresols (mixed)	1319–77–3
DDE	3547–04–4
Dichloroethyl ether	111–44–4
Dichlorvos	62–73–7
Epichlorohydrin	106–89–8
Ethyl acrylate	140–88–5
Ethylene dibromide	106–93–4
Ethylene dichloride	107–06–2
Ethylene oxide	75–21–8
Ethylene thiourea	96–45–7
Ethylidene dichloride (1,1-Dichloroethane)	75–34–3
Formaldehyde	50–00–0
Heptachlor	76–44–8
Hexachlorobenzene	118–74–1
Hexachlorobutadiene	87–68–3
Hexachloroethane	67–72–1
Hydrazine	302–01–2
Isophorone	78–59–1
Lindane (hexachlorocyclohexane, all isomers)	58–89–9
m-Cresol	108–39–4
Methylene chloride	75–09–2
Naphthalene	91–20–3
Nitrobenzene	98–95–3
Nitrosodimethylamine	62–75–9
o-Cresol	95–48–7
o-Toluidine	95–53–4
Parathion	56–38–2
p-Cresol	106–44–5
p-Dichlorobenzene	106–46–7
Pentachloronitrobenzene	82–68–8
Pentachlorophenol	87–86–5
Propoxur	114–26–1
Propylene dichloride	78–87–5
Propylene oxide	75–56–9
Quinoline	91–22–5
Tetrachloroethene	127–18–4
Toxaphene	8001–35–2
Trichloroethylene	79–01–6
Trifluralin	1582–09–8
Vinyl bromide	593–60–2
Vinyl chloride	75–01–4
Vinylidene chloride	75–35–4

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Part III

Department of the Interior

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Removing the Gray Wolf (*Canis lupus*) From the List of Endangered and Threatened Wildlife; Proposed Rules

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–HQ–ES–2018–0097; FXES11130900000C2–189–FF09E32000]

RIN 1018–BD60

Endangered and Threatened Wildlife and Plants; Removing the Gray Wolf (*Canis lupus*) From the List of Endangered and Threatened Wildlife

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service or USFWS), have evaluated the classification status of gray wolves (*Canis lupus*) currently listed in the contiguous United States and Mexico under the Endangered Species Act of 1973, as amended (Act). Based on our evaluation, we propose to remove the gray wolf from the List of Endangered and Threatened Wildlife. We propose this action because the best available scientific and commercial information indicates that the currently listed entities do not meet the definitions of a threatened species or endangered species under the Act due to recovery. The effect of this rulemaking action would be to remove the gray wolf from the Act's protections. This proposed rule does not have any effect on the separate listing of the Mexican wolf (*Canis lupus baileyi*) as endangered under the Act.

DATES: *Comment submission:* We will accept comments received or postmarked on or before May 14, 2019.

Public hearings: We must receive requests for public hearings, in writing, at the address shown in **FOR FURTHER INFORMATION CONTACT** by April 29, 2019.

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

(1) *Electronically:* Go to the Federal eRulemaking Portal: *http://www.regulations.gov.* In the Search box, enter Docket No. FWS–HQ–ES–2018–0097, which is the docket number for this rulemaking. 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, click on the Proposed Rules link to locate this document. You may submit a comment by clicking on the blue ''Comment Now!'' box. If your comments will fit in the provided comment box, please use this feature of *http://www.regulations.gov,* as it is most compatible with our comment review procedures. If you attach your comments as a separate document, our preferred file format is Microsoft Word. If you attach multiple comments (such as form letters), our preferred format is a spreadsheet in Microsoft Excel.

(2) By hard copy: Submit by U.S. mail or hand-delivery to: Public Comments Processing, Attn: Docket No. FWS–HQ–ES–2018–0097; U.S. Fish & Wildlife Service Headquarters, MS: BPHC, 5275 Leesburg Pike, Falls Church, VA 22041–3803.

We request that you send comments only by the methods described above. We will post all comments on *http://www.regulations.gov.* This generally means that we will post any personal information you provide us (see *Public Comments* below for more information).

FOR FURTHER INFORMATION CONTACT: Don Morgan, Chief, Branch of Delisting and Foreign Species, Ecological Services, U.S. Fish and Wildlife Service, Headquarters Office, MS: ES, 5275 Leesburg Pike, Falls Church, VA 22041–3803; telephone (703) 358–2444. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Executive Summary

Purpose of the Regulatory Action

Why we need to publish a rule. Under the Act, if we determine that a species is no longer threatened or endangered throughout all or a significant portion of its range, we must publish in the **Federal Register** a proposed rule to remove the species from the Lists of Endangered and Threatened Wildlife and Plants in title 50 of the Code of Federal Regulations (50 CFR 17.11 and 17.12). We also must make a final determination on our proposal within 1 year thereafter. Removing a species from the List (''delisting'' it) can only be completed by issuing a rule.

This document proposes delisting gray wolves in the lower 48 United States and Mexico. This proposed rule assesses the best available information regarding the status of and threats to the species, and replaces our June 13, 2013, proposed rule to delist the gray wolf in the lower 48 United States and Mexico (78 FR 35664). This proposed rule does not have any effect on the separate listing of the Mexican wolf as endangered under the Act (80 FR 2487, January 16, 2015).

The basis for our action. Under the Act, we determine whether a species is an endangered or threatened species based on any one or more of five factors or the cumulative effects thereof: (A) The present or threatened destruction, modification, or curtailment of its habitat or range; (B) Overutilization for commercial, recreational, scientific, or educational purposes; (C) Disease or predation; (D) The inadequacy of existing regulatory mechanisms; or (E) Other natural or manmade factors affecting its continued existence. We have determined that the gray wolf in the lower 48 United States and Mexico (except the Mexican wolf subspecies) no longer meets the definition of an endangered or threatened species under the Act.

Peer review. We will seek comments from independent specialists to ensure that our designation is based on scientifically sound data, assumptions, and analyses. We will invite these peer reviewers to comment on our listing proposal. Because we will consider all comments and information received during the comment period, our final determination may differ from this proposal.

Information Requested

Public Comments

We intend that any final action resulting from this proposal will be based on the best scientific and commercial data available and will be as accurate and as effective as possible. Therefore, we request comments or information from the public, concerned Tribal and governmental agencies, the scientific community, industry, or any other interested parties concerning this proposed rule. Comments should be as specific as possible.

As this proposal replaces our June 13, 2013, proposal to delist gray wolves in the lower 48 United States and Mexico (78 FR 35663), we ask that any comments previously submitted that are relevant to the status of wolves currently listed in the contiguous United States and Mexico, as analyzed in this rule, be resubmitted at this time. Comments must be submitted during the comment period for this proposed rule to be considered.

Please include sufficient information with your submission (such as scientific journal articles or other publications) to allow us to verify any scientific or commercial information you include.

Please note that submissions merely stating support for, or opposition to, the action under consideration without providing supporting information, although noted, will not meet the standard of best available scientific and commercial data. Section 4(b)(1)(A) of the Act directs that determinations as to whether any species is threatened or endangered must be made ''solely on the basis of the best scientific and commercial data available.''

You may submit your comments and materials 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 your 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.*

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* at Docket No. FWS–HQ–ES–2018–0097, or by appointment, during normal business hours at U.S. Fish and Wildlife Service Headquarters (see **FOR FURTHER INFORMATION CONTACT**).

Peer Review

In accordance with our joint policy on peer review published in the **Federal Register** on July 1, 1994 (59 FR 34270), we will seek the expert opinions of at least three appropriate and independent specialists regarding scientific data and interpretations contained in this proposed rule. The purpose of peer review is to ensure that our decisions are based on scientifically sound data, assumptions, and analyses. We will invite these peer reviewers to comment during the public comment period on our proposed action; these comments will be available along with other public comments in the docket for this proposed rule.

We will consider all comments and information we receive during this comment period during our preparation of the final determination. Accordingly, the final decision may differ from this proposal.

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Previous Federal Actions

Gray wolves were originally listed as subspecies or as regional populations of subspecies in the contiguous United States and Mexico. Early listings were under legislative predecessors of the Act—the Endangered Species Preservation Act of 1966 and the Endangered Species Conservation Act of 1969. Later listings were under the Endangered Species Act of 1973. The **Federal Register** citations for all the rulemaking actions described in the following paragraphs are provided in table 1, below.

In 1978, we published a rule reclassifying the gray wolf as an endangered population at the taxonomic species level (*C. lupus*) throughout the contiguous United States and Mexico, except for the Minnesota gray wolf population, which was classified as threatened (table 1). At that time, we considered the gray wolves in Minnesota to be a listable entity under the Act, and we considered gray wolves in Mexico and the 48 contiguous United States other than Minnesota to be another listable entity (43 FR 9607 and 9610, respectively, March 9, 1978). The earlier subspecies listings thus were subsumed into the listings for the gray wolf in Minnesota and the gray wolf in the rest of the contiguous United States and Mexico.

The 1978 reclassification was undertaken to ''most conveniently'' address changes in our understanding of gray wolf taxonomy and protect all gray wolves in the lower 48 United States. In addition, we sought to clarify that the gray wolf was only listed south of the Canadian border.

The 1978 reclassification rule stipulated that ''biological subspecies would continue to be maintained and dealt with as separate entities'' (43 FR 9609), and offered ''the firmest assurance that [the Service] will continue to recognize valid biological subspecies for purposes of its research and conservation programs'' (43 FR 9610). Accordingly, we implemented three gray wolf recovery programs in three regions of the country—the northern Rocky Mountains, the southwestern United States, and the eastern United States—to establish and prioritize recovery criteria and actions appropriate to the unique local circumstances of the gray wolf (table 1). Recovery in two of these regions (northern Rocky Mountains and southwestern United States) required reintroduction of gray wolves in experimental populations (table 1),

while recovery in the third (eastern United States) relied on natural recolonization and population growth.

Between 2003 and 2015, we published several rules revising the 1978 contiguous United States and Mexico listings for *C. lupus* in an attempt to acknowledge taxonomy, comport with current policy and practices, and to recognize the biological recovery of gray wolves in the northern Rocky Mountains (NRM) and western Great Lakes (WGL) populations. Previous rules were challenged and subsequently invalidated or vacated by various courts based, in part, on their determinations that our distinct population segment (DPS) designations were legally flawed (table 1).

Of particular relevance to this proposed rule is our 2011 final rule, in which we recognized the expansion of the Minnesota wolf population by revising the entity to include all or portions of six surrounding States, identified the expanded population as the western Great Lakes DPS (WGL DPS), and revised the listings to remove the WGL DPS from the List due to recovery. Also in 2011, we published a final rule that implemented Section 1713 of Public Law 112–10, reinstating our 2009 delisting rule for the NRM DPS and, with the exception of Wyoming, removed gray wolves in that DPS from the List. In 2012, we finalized a rule removing gray wolves in Wyoming from the List. Subsequently, in 2013, we published a proposed rule to delist *C. lupus* in the remaining listed portions of the United States and Mexico outside of the delisted NRM and WGL DPSs, and keep Mexican wolf listed as an endangered subspecies, *C. l. baileyi* (table 1).

However, in 2014 the United States District Court for the District of Columbia vacated the final rule at 76 FR 81666 (December 28, 2011) that removed protections of the Act from the gray wolf in the western Great Lakes (table 1). The court's action was based, in part, on its conclusion that the Act does not allow the Service to use its authority to identify DPSs as ''species'' to remove the protections for part of an already listed species. The U.S. Court of Appeals disagreed, ruling in 2017 that the Service had the authority to designate a DPS from a larger listed entity and delist it in the same rule (table 1). That court nonetheless upheld the District Court's vacatur, concluding that the Service failed to reasonably analyze or consider two significant aspects of the rule: The impacts of partial delisting and historical range loss on the remainder of the listed entity.

Our 2012 decision to delist gray wolves in Wyoming was also vacated by the U.S. District Court for the District of Columbia. Because the 2013 proposal to delist the remaining listed portions of the gray wolf in the United States and Mexico relied in part on two subsequently vacated final rules, the 2011 WGL DPS rule as well as our 2012 rule delisting gray wolves in Wyoming, in 2015 we only finalized the portion of the rule listing the Mexican wolf as an endangered subspecies (table 1). In 2017, the D.C. Circuit reversed the district court's decision and reinstated the delisting of gray wolves in Wyoming. Thus, wolves are currently delisted in the entire northern Rocky Mountains area (figure 1).

As a result of the above actions, the *C. lupus* listings in 50 CFR 17.11 currently include: (1) *C. lupus* in Minnesota listed as threatened, and (2) *C. lupus* in all or portions of 44 U.S. States and Mexico, listed as endangered (figure 1). In the United States, this includes: all of Alabama, Arkansas, California, Colorado, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Massachusetts, Maryland, Maine, Michigan, Missouri, Mississippi, North Carolina, North Dakota, Nebraska, New Hampshire, New Jersey, Nevada, New York, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Virginia, Vermont, West Virginia, and Wisconsin; and portions of Arizona, New Mexico, Oregon, Utah, and Washington (figure 1).

For additional information on these Federal actions and their associated litigation history refer to the relevant associated rules or the Previous Federal Actions sections of our recent gray wolf actions (see table 1).

TABLE 1—KEY FEDERAL REGULATORY ACTIONS UNDER THE ACT AND PREDECESSOR LEGISLATION [1] PERTAINING TO GRAY WOLF AND, WHERE APPLICABLE, OUTCOMES OF COURT CHALLENGES TO THESE ACTIONS

[E = Endangered Species, T = Threatened Species, DPS = Distinct Population Segment, NRM = Northern Rocky Mountains, WGL = Western Great Lakes]

Entity	Year of action	Type of action	Federal Register citation	Litigation history
C. l. lycaon	1967 [1]	List	32 FR 4001, March 11, 1967	
C. l. irremotus	1973 [1]	List	38 FR 14678, June 4, 1973	
C. l. lycaon	1974	List	39 FR 1171, January 4, 1974	
C. l. irremotus	1974	List	39 FR 1171, January 4, 1974	
C. l. baileyi	1976	List (E)	41 FR 17736, April 28, 1976	
C. l. monstrabilis [2]	1976	List (E)	41 FR 24064, June 14, 1976	
C. lupus in lower 48 U.S. (except Minnesota) & Mexico.	1978	Reclassify (E)	43 FR 9607, March 9, 1978 [3]	
C. lupus in Minnesota	1978	Reclassify (T)	43 FR 9607, March 9, 1978 [3]	
C. lupus	1978 (revised 1992)	Recovery Plan for Eastern Timber Wolf (eastern gray wolf).	n.a.	
C. lupus	1980 (revised 1987)	Recovery Plan for NRM Gray Wolf	n.a.	
C. lupus	1982 (revised 2017)	Recovery Plan for Mexican Gray Wolf (*C. l. baileyi*).	n.a.	
C. lupus	1994	Establish experimental population (southeastern Idaho, southern Montana, and Wyoming).	59 FR 60266, November 22, 1994	
C. lupus	1994	Establish experimental population (central Idaho & southwest Montana).	59 FR 60252, November 22, 1994	
C. lupus	1998	Establish experimental population (Arizona & New Mexico).	63 FR 1752, January 12, 1998	

TABLE 1—KEY FEDERAL REGULATORY ACTIONS UNDER THE ACT AND PREDECESSOR LEGISLATION [1] PERTAINING TO GRAY WOLF AND, WHERE APPLICABLE, OUTCOMES OF COURT CHALLENGES TO THESE ACTIONS—Continued

[E = Endangered Species, T = Threatened Species, DPS = Distinct Population Segment, NRM = Northern Rocky Mountains, WGL = Western Great Lakes]

Entity	Year of action	Type of action	Federal Register citation	Litigation history
C. lupus DPSs: —Eastern DPS —Western DPS —Southwestern U.S. & Mexico DPS.	2003	Designate DPS & classify/reclassify as:. —Eastern DPS (T) —Western DPS (T) —Southwestern U.S. & Mexico DPS (E) Delist in unoccupied non-historical range.	68 FR 15804, April 1, 2003	Rule vacated (*Defenders of Wildlife* v. *Norton,* 354 F. Supp. 2d 1156 (D. Or. 2005); *National Wildlife Federation* v. *Norton,* 386 F. Supp. 2d 553 (D. Vt. 2005))
C. lupus WGL DPS	2007	Designate DPS & delist	72 FR 6052, February 8, 2007	Rule vacated (*Humane Society of the United States* v. *Kempthorne,* 579 F. Supp. 2d 7 (D.D.C. 2008))
C. lupus NRM DPS	2008	Designate DPS & delist	73 FR 10514, February 27, 2008	Rule vacated and remanded (*Defenders of Wildlife* v. *Hall,* 565 F. Supp. 2d 1160 (D. Mont. 2008))
C. lupus DPSs: —WGL DPS —NRM DPS	2008	Reinstatement of protections—NRM & WGL DPSs.	73 FR 75356, December 11, 2008	
C. lupus WGL DPS	2009	Designate DPS & delist	74 FR 15070, April 2, 2009	Rule vacated (*Humane Society of the United States* v. *Salazar,* 1:09–CV–1092–PLF (D.D.C. 2009))
C. lupus NRM DPS (except Wyoming).	2009	Designate DPS & delist (except in Wyoming).	74 FR 15123, April 2, 2009	Rule vacated (*Defenders of Wildlife* v. *Salazar,* 729 F. Supp. 2d 1207 (D. Mont. 2010))
C. lupus WGL DPS	2009	Reinstatement of protections—WGL.	74 FR 47483, September 16, 2009.	
C. lupus NRM DPS	2010	Reinstatement of protections—NRM DPS.	75 FR 65574, October 26, 2010	
C. lupus NRM DPS	2011	Reissuance of 2009 NRM DPS delisting rule (as required by Public Law 112–10-The Department of Defense and Full-Year Continuing Appropriations Act, 2011).	76 FR 25590, May 5, 2011	
C. lupus WGL DPS	2011	Revise 1978 listing, designate DPS & delist.	76 FR 81666, December 28, 2011	Rule vacated (*Humane Society of the U.S.* v. *Jewell,* 76 F. Supp. 3d 69, 110 (D.D.C. 2014)) Vacatur upheld on appeal (*Humane Society of the U.S.* v. *Zinke,* 865 F.3d 585 (D.C. Cir. 2017))
C. lupus in Wyoming	2012	Delist in Wyoming	77 FR 55530, September 10, 2012.	Rule vacated (*Defenders of Wildlife* v. *Jewell,* 68 F. Supp. 3d 193 (D.D.C. 2014) Vacatur reversed on appeal (*Defenders of Wildlife* v. *Zinke,* 849 F.3d 1077 (D.C. Cir. 2017))
C. lupus in lower 48 U.S. (except NRM & WGL DPSs) and Mexico.	2013	Propose delist in lower 48 U.S. & list *C. l. baileyi* (E); status review of wolves in Pacific Northwest.	78 FR 35664, June 13, 2013	
C. l. baileyi	2015	List E	80 FR 2488, January 16, 2015	
C. l. baileyi	2015	Revised 1998 *C. lupus* experimental population and associated it with *C. l. baileyi* listing.	80 FR 2512, January 16, 2015	
C. lupus WGL DPS and *C. lupus* in Wyoming.	2015	Reinstatement of protections—WGL DPS & Wyoming.	80 FR 9218, February 20, 2015	
C. lupus in Wyoming	2017	Reinstatement of 2012 delisting—Wyoming.	82 FR 20284, May 1, 2017	

[1] Action taken under the Endangered Species Preservation predecessor legislation (Endangered Species Act of 1966, Endangered Species Conservation Act of 1969).

[2] Later subsumed into *C. l. baileyi* due to taxonomic changes.

[3] In this rule we also identified critical habitat in Michigan and Minnesota and promulgated special regulations under section 4(d) of the Act for operating a wolf-management program in Minnesota. The special regulation was later modified (50 FR 50793, December 12, 1985).

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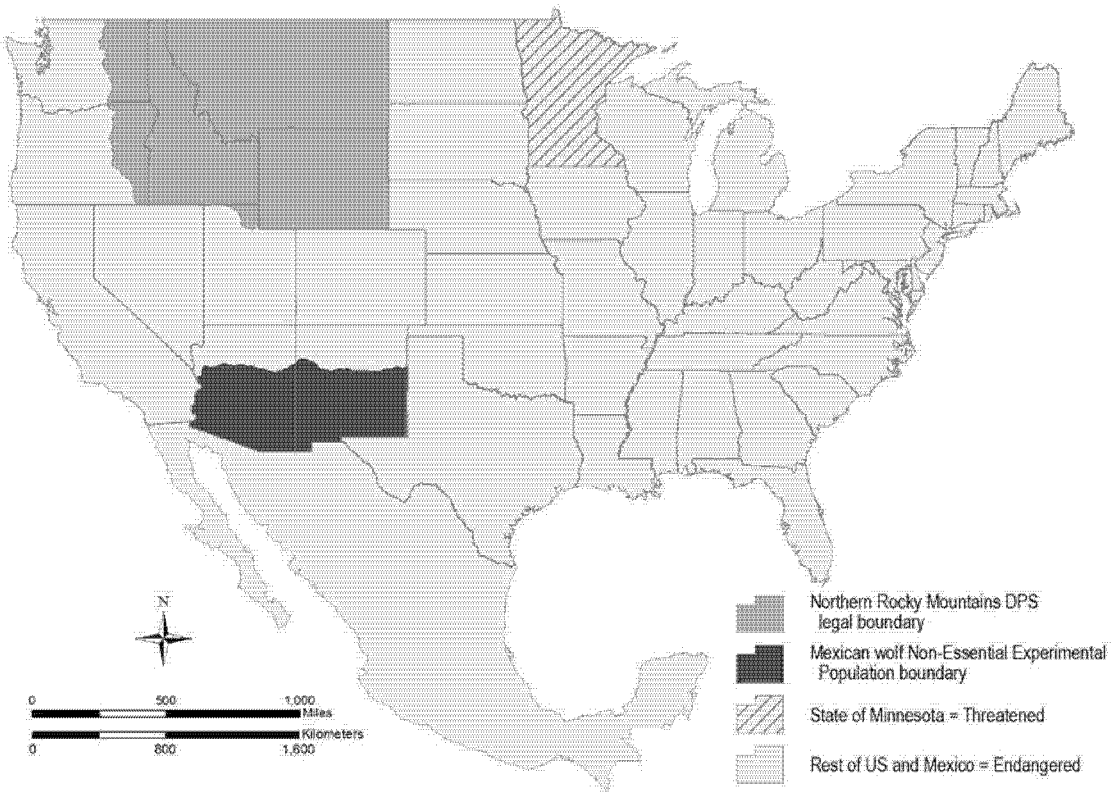

Figure 1: Current legal status of *C. lupus* under the Act. Northern Rocky Mountains DPS and Mexican wolf Non-Essential Experimental Population are not part of the listed entities. All map lines are approximations; see 50 CFR 17.11 and 17.84(k) for exact boundaries.

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General Background

The 1978 Reclassification

When the gray wolf (*C. lupus*) was reclassified in March 1978 (replacing multiple subspecies listings with two *C. lupus* population listings as described further in Previous Federal Actions), it had been extirpated from much of its historical range in the contiguous United States. Although the 1978 reclassification listed two gray wolf entities (a threatened population in Minnesota and an endangered population throughout the rest of the contiguous United States and Mexico), these listings were not predicated upon a formal DPS analysis, because the reclassification predated the November 1978 amendments to the Act, which revised the definition of ''species'' to include distinct population segments of vertebrate fish or wildlife, and our 1996 DPS Policy.

As indicated in Previous Federal Actions, the 1978 reclassification was employed as an approach of convenience to ensure the gray wolf was protected wherever it was found (as described in 47 FR 9607, March 9, 1978) in the lower 48 States and Mexico, rather than an indication of where gray wolves actually existed or where gray wolf recovery would occur. Thus, the 1978 reclassification resulted in inclusion of large areas of the contiguous United States where gray wolves were extirpated, as well as the mid-Atlantic and southeastern United States—west to central Texas and Oklahoma—an area that is generally accepted not to be within the historical range of *C. lupus* (Young and Goldman 1944, pp. 413–416, 478; Nowak 1995, p. 395, fig. 20). While this generalized approach to the listing appropriately protected dispersing wolves throughout the historical range of *C. lupus* in the United States and Mexico and facilitated recovery of the northern Rocky Mountains and western Great Lakes populations, it also erroneously included areas outside the species' historical range and was misread by some members of the public as an expression of a larger gray wolf recovery effort not required by the Act and never intended by the Service. In fact, as discussed below (see *National Wolf Strategy*), our recovery efforts have consistently focused on reestablishing wolf populations in specific areas of the country.

National Wolf Strategy

We first described our national wolf strategy in our May 5, 2011, proposed rule to revise the List for the gray wolf in the eastern United States (76 FR 26086). This strategy was intended to: (1) Lay out a cohesive and coherent approach to addressing wolf conservation needs, including protection and management, in accordance with the Act's statutory framework; (2) ensure that actions taken for one wolf population do not cause unintended consequences for other populations; and (3) be explicit about the role of historical range in the conservation of extant wolf populations. Included in this strategy is the precept that, in order to qualify for any type of listing or delisting action, wolf entities must conform to the Act's definition of ''species,'' whether as taxonomic species or subspecies or as distinct population segments.

Our May 5, 2011, proposed rule states that our strategy focuses on conservation of four extant gray wolf entities being considered for

classification actions: (1) The western Great Lakes population, (2) the northern Rocky Mountains population, (3) the southwestern population of Mexican wolves, and (4) gray wolves in the Pacific Northwest. All of our actions to date are consistent with this focus. As stated above (see Previous Federal Actions), we published final rules delisting the NRM DPS (except for Wyoming), WGL DPS, and Wyoming portion of the NRM DPS in 2011 and 2012, and published a final rule listing the Mexican wolf (*C. l. baileyi*) separately as endangered in 2015. However, as indicated in Previous Federal Actions, our 2011 final rule designating and delisting the WGL DPS was subsequently vacated.

In addition to the rules described above, we completed a status review for gray wolves in the Pacific Northwest (western Washington and western Oregon) in 2013 (table 1). We determined that these wolves are not discrete, under our DPS policy, from wolves in the NRM DPS (see 78 FR 35707–35713) and, therefore, are not a valid listable entity under the Act. Wolves in the Pacific Northwest are a mix of individuals derived from wolves in the northern Rocky Mountains and Canada (or both) and represent the expanding fronts of these populations (78 FR 35707–35713, USFWS 2018, pp. 4, 14–15, 23). Since publication of our 2013 status review, wolves have also expanded into northern California. Wolves in northern California are not discrete from those in the Pacific Northwest based on documented movement of wolves between Oregon and California (USFWS 2018, pp. 14–15). Therefore, wolves in western Washington, western Oregon, and northern California are not a valid DPS because they are not discrete from the NRM DPS.

Approach for This Proposed Rule

The Entities Addressed in This Rule

In this proposed rule, we consider the status of the gray wolf within the geographic boundaries of the two currently listed *C. lupus* entities to determine whether these wolves should remain on the List in their current status, be reclassified, or be removed from the List. These two currently listed entities are: (1) *C. lupus* in Minnesota, and (2) *C. lupus* in the lower 48 United States and Mexico outside of Minnesota, the NRM DPS (Montana, Idaho, Wyoming, eastern third of Washington and Oregon, and north-central Utah), and the area covered by the experimental population area for *C. l. baileyi* (the designated area in which the subspecies is being re-introduced; see 63 FR 1752, January 12, 1998). These two entities are currently listed as threatened and endangered, respectively.

While our past status reviews have focused on *C. lupus* DPSs and taxonomic units that align with our national wolf strategy (see table 1), this status review considers the current *C. lupus* listed entities described above. We do this:

(1) To address the Court of Appeals concerns with our 2011 final rule delisting the WGL DPS, specifically, concern pertaining to the impacts of partial delisting on the remainder of the already-listed species (see Previous Federal Actions);

(2) To avoid a rulemaking that conflicts with multiple court opinions regarding our prior attempts to designate and delist wolf DPSs (see table 1); and

(3) Because, with the exception of *C. l. baileyi,* which is listed separately as endangered wherever found (see Previous Federal Actions), the taxonomy of *C. lupus* is complex, controversial, and unresolved (USFWS 2018, pp. 1–4; also see *How We Address Taxonomic Uncertainties in this Rule,* below).

How We Address the C. lupus Entities in This Rule

The two currently listed gray wolf entities are vestiges of a 40-year-old action (the 1978 reclassification (see Background)). Our knowledge of wolf biology and taxonomy has vastly changed since then. Additionally, our previous efforts to revise the listed entities have not withstood judicial scrutiny (see Previous Federal Actions). Our policies and practices pertaining to listable entities have also changed since the 1978 reclassification. As a result, these entities do not conform with our current policies and standard practice. Specifically: (1) These two entities are not discrete from one another under our current policy on vertebrate distinct population segments (DPSs) (61 FR 4722, February 7, 1996); (2) the listing for the larger entity includes areas known to overlap with the range of the separately listed gray wolf subspecies *C. l. baileyi;* and (3) wolves currently listed in the western United States are not discrete from the recovered Northern Rocky Mountains population, which we removed from the List in 2009 (table 1).

(1) Lack of Discreteness of the Two *C. lupus* Listed Entities

Under the Act we can list a species, subspecies, or vertebrate DPS. Neither of the two entities currently on the List represents an entire species or subspecies, thus to comply with the statute, these listings must be DPSs. Our 1996 DPS policy specifies that a vertebrate population must be both discrete and significant to qualify as a DPS (61 FR 4722–4725; February 7, 1996). To qualify as ''discrete,'' a population must be ''markedly separated from other populations of the same taxon as a consequence of physical, physiological, ecological, or behavioral factors'' (61 FR 4725). However, as indicated, the populations in these two entities are no longer discrete (U.S. Fish and Wildlife Service (USFWS) 2018, pp. 22–23). Therefore, because it is clear that neither entity would qualify as a DPS under our 1996 DPS policy (61 FR 4725), we consider the conservation status of the two listed wolf entities as one combined entity in this proposed rule. We refer to the combined entity simply as ''the gray wolf entity'' throughout this proposed rule.

(2) *C. l. baileyi* listing

As indicated above (see Previous Federal Actions), in 2015 we revised the listing for gray wolf by reclassifying the subspecies *C. l. baileyi* as a separately listed entity with the status of endangered, wherever found. Although the rulemaking does not include language expressly excluding *C. l. baileyi* from the previously listed *C. lupus* entity, we indicated in our 2015 final rule listing the subspecies that the effect of the regulation was to revise the List by making a separate entry for the Mexican wolf (80 FR 2488, 2511, January 16, 2015). Therefore, because we already assessed the status of, and listed, the Mexican wolf separately, we do not consider individuals or populations of *C. l. baileyi* in this proposed rule. In geographical terms, we do not consider wolves occurring in Mexico and within the experimental population area in this proposed rule. *Canis lupus baileyi* is the only subspecies known to occur in these areas, and we have no information suggesting that other gray wolves occur in these areas.

(3) Lack of Discreteness of Western Wolves Within and Outside the Gray Wolf Entity

In the coastal States of the western United States, wolves within the gray wolf entity occur in an area comprising western Oregon, western Washington, and northern California. These wolves are part of the expanding fronts (or edges) of the recovered and delisted wolf population in the NRM DPS and wolves crossing into the United States

from British Columbia, Canada (USFWS 2018, p. 22). While wolves in the west coast States may not be discrete from the NRM DPS and wolves in British Columbia, Canada, we do not combine wolves in the west coast States with those in the NRM DPS and British Columbia, Canada, for the purpose of our analysis (as we combined the two currently listed entities) because wolves in the NRM DPS and British Columbia, Canada, are not currently listed under the Act. Therefore, we do not consider wolves occurring in either of these locations in this proposed rule except to provide context, where appropriate, in our discussions of wolves comprising the gray wolf entity.

How We Address Taxonomic Uncertainties in This Rule

The taxonomy and evolutionary history of wolves in North America are complex and controversial, particularly with respect to the taxonomic assignment of wolves in the northeastern United States and portions of the Great Lakes region (eastern wolves) (see *Taxonomy of Gray Wolves in North America*). Available information indicates ongoing scientific debate and a lack of resolution on the taxonomy of eastern wolves. Some scientists consider eastern wolves to be a distinct species, *C. lycaon;* some consider them gray wolves (*C. lupus*); and some consider them the product of hybridization between gray wolves and coyotes (USFWS 2018, p. 1). Further, none of these viewpoints is more widely accepted by the scientific community.

For the purposes of this proposed rule, we consider eastern wolves to be members of the species *C. lupus* because there is not clear support for a recognizable and independent evolved eastern wolf species. Therefore, in our assessment of the status of the gray wolf entity, we include eastern wolves and eastern wolf range that occurs within the geographical boundaries of the gray wolf entity.

We note that in our 2013 proposed rule to delist wolves in the lower 48 United States and Mexico (table 1), we accepted the conclusions of Chambers *et al.* (2012, entire) on the taxonomy of eastern wolves and recognized eastern wolves as the distinct species *C. lycaon.* However, peer reviewers of our 2013 proposed rule indicated that Chambers *et al.* was not universally accepted and our rule did not represent the best available science (National Center for Ecological Analysis and Synthesis 2014, entire). Also, new information published on the topic since publication of our 2013 rule indicates the taxonomy of eastern wolves continues to be controversial and unresolved (USFWS 2018, pp. 1–2). Finally, the uncertainty of the existence of a separate species is reflected in the fact that *C. lycaon* is not recognized by authoritative taxonomic organizations such as the American Society of Mammalogists or the International Commission on Zoological Nomenclature.

Scientists also disagree on the taxonomic assignment of wolves in the southeastern United States generally recognized as ''red wolves.'' However, we recognize the red wolf as the species *C. rufus,* and note that it is listed as endangered where found (32 FR 4001, March 11, 1967). We do not consider red wolves further in this rule, and the red wolf listing is not affected by this proposal.

Summary of Our Approach

In this proposed rule, we assess the status of gray wolves occurring within the geographic area outlined by the two currently listed gray wolf (*C. lupus*) entities combined (figure 1), but we do not include in our assessment individuals or populations of the Mexican gray wolf (*C. l. baileyi*) (wolves that occur in Mexico and the nonessential experimental population area in the southwestern United States) as these wolves are separately listed as an endangered subspecies (80 FR 2488, January 16, 2015). Further, for the purposes of this proposed rule, we consider any eastern wolves within the geographic boundaries of the two currently listed gray wolf entities to be members of the species *C. lupus.* As stated previously, this proposed rule supersedes the June 13, 2013, proposed rule to delist *C. lupus* in the remaining listed portions of the United States and Mexico outside of the delisted NRM and WGL (78 FR 35663).

Species Information

We provide detailed background information on gray wolves in the United States in a separate Gray Wolf Biological Report (see USFWS 2018, entire). This document can be found along with this proposed rule at *http://regulations.gov* in Docket No. FWS–HW–ES–2018–0097 (see *Supplemental Documents*). We summarize relevant information from this report below. For additional information, including sources of the information presented below, see USFWS (2018, entire) and references therein.

Biology and Ecology

Gray wolves are the largest wild members of the dog family and have a broad circumpolar range. They are highly territorial, social animals that live and hunt in packs. They are well adapted to traveling fast and far in search of food, and catching and eating large mammals. In North America they are primarily predators of medium to large mammals, including deer, elk, and other species.

Gray wolves are habitat generalists. They can successfully occupy a wide range of habitats and are not dependent on wilderness for their survival. An inadequate prey density and a high level of human persecution appear to be the only factors that limit habitat suitability and gray wolf distribution. Thus, virtually any area that has sufficient prey and adequate protection from persecution can be suitable habitat for gray wolves.

Wolf populations are remarkably resilient as long as food supply and regulation of human-caused mortality are adequate. In the absence of high levels of anthropogenic influences, wolf populations are generally believed to be regulated by the distribution and abundance of prey on the landscape, though density-dependent, intrinsic mechanisms (*e.g.,* social strife, territoriality, disease) may limit populations when ungulate densities are high. Where harvest occurs, high levels of reproduction and immigration can compensate for high mortality rates. Pack social structure is very adaptable—breeding members can be quickly replaced from within or outside the pack, and pups can be reared by another pack member should their parents die. Consequently, wolf populations can rapidly overcome severe disruptions, such as pervasive human-caused mortality or disease. Wolf populations can increase rapidly after severe declines if the source of mortality is reduced. Also, the species' dispersal capabilities allow a wolf population to quickly expand and colonize nearby areas, even areas separated by broad expanses of unsuitable habitat.

Taxonomy of Gray Wolves in North America

The taxonomy of the genus *Canis* in North America has a complex and contentious history, particularly with respect to two generally recognized phenotypes (morphological forms) that occur in eastern North America: The ''red wolf'' and ''eastern wolf.'' As indicated above (see *How We Address Taxonomic Uncertainties in this Rule*), we continue to recognize the red wolf as the species *C. rufus* and do not discuss the taxonomy of the species further in this rule (for more information, see our 2018 Red Wolf Species Status Assessment). We discuss the eastern wolf further below.

The ''eastern wolf'' has been the source of perhaps the most significant disagreement on North American canid taxonomy among scientists. The ''eastern wolf'' has been variously described as a species, a subspecies of gray wolf, an ecotype of gray wolf, or the product of hybridization between gray wolves and coyotes. Hybridization is widely recognized to have played, and to continue to play, an important role among ''eastern wolves,'' with varying views on the role of hybridization between ''eastern wolves'' and coyotes, ''eastern wolves'' and gray wolves, and gray wolves and coyotes. Minnesota appears to be the western edge of a hybrid zone between western gray wolves and eastern wolves—wolves in western Minnesota appear to be gray wolves both morphologically and genetically while wolves in eastern Minnesota and much of the Great Lakes area appear to be ''eastern wolf,'' introgressed with western gray wolf to varying degrees.

No controversy exists regarding the number of wolf species in western North America—all are widely recognized as gray wolves (*C. lupus*). However, the science pertaining to gray wolf subspecies designations, unique evolutionary lineages, ecotypes, and admixture of formerly isolated populations continues to develop and remains unresolved. Even so, genetic studies indicate that wolves in Washington include individuals from the northern Rocky Mountains, individuals from British Columbia, and individuals of mixed ancestry. Wolves currently occupying Oregon and California are derived from dispersers from the northern Rocky Mountains.

Range and Population Trends Prior to 1978 Reclassification

Historical Range of the Gray Wolf Entity

We view the historical range to be the range of gray wolves within the gray wolf entity at the time of European settlement. We determined that this timeframe is appropriate because it precedes the major changes in range in response to excessive human-caused mortality (USFWS 2018, pp. 7–11).

At the time of the 1978 reclassification, the historical range of the gray wolf was generally believed to include most of North America and, consequently, most of the gray wolf entity. In the lower 48 United States, they were reportedly absent from parts of California, the arid deserts and mountaintops of the western United States, and parts of the eastern United States. However, some authorities question the species' historical absence in parts of California. In addition, long-held differences of opinion exist among scientists regarding the precise boundary of the gray wolf's historical range in the eastern United States. Some believe the range of gray wolves extended as far south as southern Georgia while others believe it did not extend into the southeast at all. The southeastern and mid-Atlantic States are generally recognized as being within the historical range of the red wolf, but it is not known how much range overlap historically occurred between these two species. Because of the various scientific positions on gray wolf species and range, the historical extent of gray wolf range for much of the gray wolf entity in the eastern United States remains uncertain.

Based on our review of the best available information, we view the historical range of the gray wolf within the gray wolf entity to follow that presented in Nowak (1995) and depicted in figure 2. This includes all areas within the gray wolf entity except western California, a small portion of southwestern Arizona, and the southeastern United States (see figure 2 and USFWS 2018, pp. 7–11).

While some authorities question the absence of gray wolves in parts of California, limited preserved physical evidence of wolves in California exists. Therefore, we rely on early reports of wolves in the State that describe the species as occurring in the northern and Sierra Mountain regions of California. Further, while recognizing that the extent of overlap of *C. rufus* and *C. lupus* ranges is unknown, because the southeastern United States are generally recognized as within the range of *C. rufus,* we consider it to be generally outside the range of *C. lupus.* However, we acknowledge that the historical range of *C. lupus* is uncertain and the topic of continued debate among scientists.

Historical Abundance of the Gray Wolf Entity

Historical abundance of gray wolves within the gray wolf entity is largely unknown. Based on the reports of European settlers, gray wolves were common in much of the West. While historical (at the time of European settlement) estimates are notoriously difficult to verify, one study estimates that hundreds of thousands of wolves occurred in the western United States and Mexico. In the Great Lakes area, there were an estimated 4,000 to 8,000 in Minnesota, 3,000 to 5,000 in Wisconsin, and fewer than 6,000 in Michigan. No estimates are available for historical abundance in the Northeast.

Historical Trends in Range and Abundance for the Gray Wolf Entity

Gray wolf range and numbers throughout the gray wolf entity declined significantly during the 19th and 20th centuries as a result of killing of wolves by humans through poisoning, unregulated trapping and shooting, and government-funded wolf-extermination efforts. By the time subspecies were first listed under the Act in 1974 (table 1), the gray wolf had been eliminated from most of its historical range within the lower 48 United States, including within most of the gray wolf entity.

Distribution, and Abundance of the Gray Wolf Entity at the Time of the 1978 Reclassification

By the time gray wolf subspecies were listed under the Act in 1974 (table 1), the species occurred in only a small fraction of its historical range. Aside from a few scattered individuals, wolves occurred in only two places within the gray wolf entity (and the entire lower 48 United States). A population persisted in northeastern Minnesota, and a small, isolated group of about 40 wolves occurred on Isle Royale, Michigan. The Minnesota wolf population was the only major U.S. population in existence outside Alaska at this time and numbered about 1,000 individuals. While the Minnesota population was small compared to historical numbers and range within the lower 48 United States, it had not undergone a significant decline since about 1900. By 1978, when several gray wolf subspecies were consolidated into a single lower 48 United States/Mexico listing and a separate Minnesota listing under the Act, the gray wolf population in Minnesota had increased to an estimated 1,235 wolves in 138 packs (in the winter of 1978–79) and had an estimated range of 14,038 square miles (mi^2) (36,500 square kilometers (km^2)) (figure 2). Although it was suspected that wolves inhabited Wisconsin at this time, it was not until 1979 that wolf presence was confirmed in the State.

Current Distribution and Abundance of the Gray Wolf Entity

The vast majority of wolves within the gray wolf entity now exist as a large, stable or growing metapopulation (partially isolated set of subpopulations) of more than 4,400 individuals that is broadly distributed across the northern portions of three States in the Great Lakes area. This metapopulation is also connected, via documented dispersals, to the large and expansive population of about 12,000–14,000 wolves in eastern Canada. As a result, gray wolves in the

Great Lakes area do not function as an isolated metapopulation of 4,400 individuals across three States, but rather as part of a much larger metapopulation that spans across three States of the United States and two Provinces of Canada.

In addition to the metapopulation in the Great Lakes area, as of 2017, three breeding pairs and four packs with no documented reproduction occur within the gray wolf entity in Oregon, Washington, and California. These wolves originated from large populations of approximately 15,000 wolves in western Canada and about 1,700 wolves in the northern Rocky Mountains. Effective dispersal has been documented among California, Oregon, and Washington as well as between these States and other northern Rocky Mountains States and Canada. Thus, wolves in the Pacific coast States are an extension of the metapopulation of wolves in western Canada and the northern Rocky Mountains.

Finally, a number of lone long-distance dispersing wolves have been documented outside core populations of the Great Lakes area and western United States since the early 2000s. Confirmed records of individual wolves have been reported from North Dakota, South Dakota, Utah, Colorado, Nevada, Missouri, Indiana, Illinois, Nebraska, and Kansas. The total number of confirmed records in each of these States, since the early 2000s, ranges from one in Nevada to at least 27 in North Dakota, with the latter also having an additional 45 probable but unverified reports.

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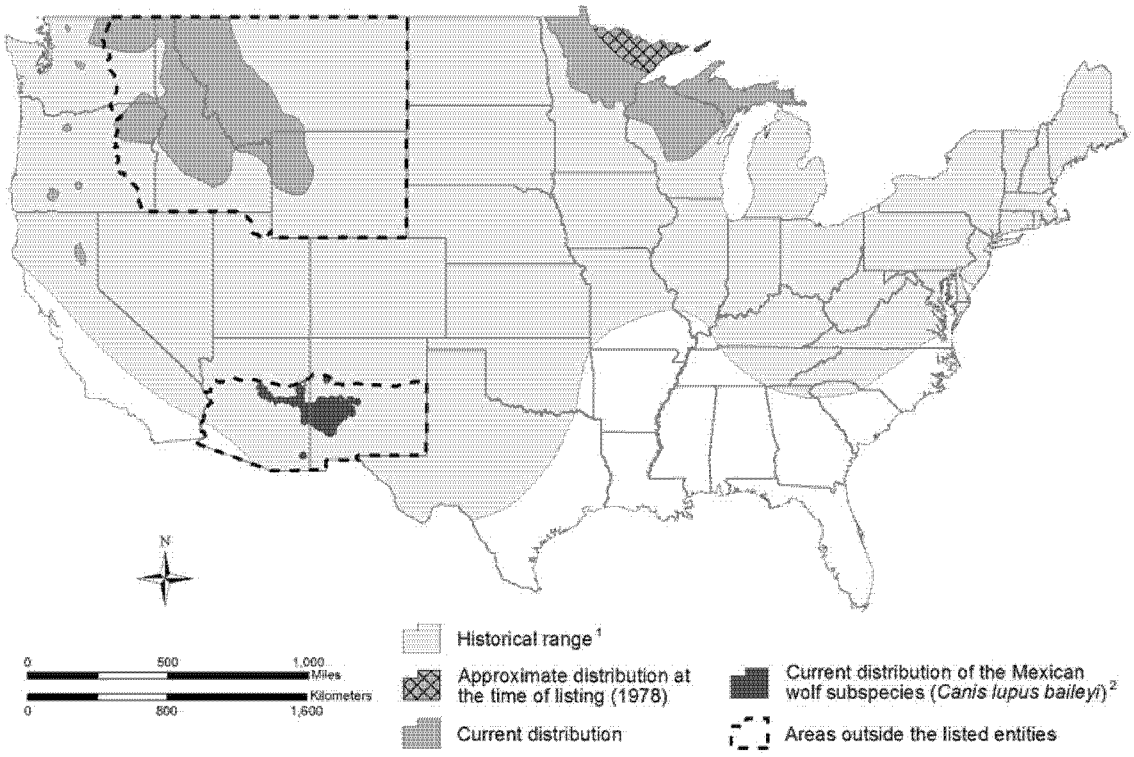

Figure 2. Historical range and current distribution of the gray wolf (*Canis lupus*) within the gray wolf entity. [1] Based on Nowak (1995)—recognizing that the exact extent of historical range is uncertain, we chose Nowak (1995) as the historical range boundary in the east to encompass the largest reasonable historical distribution in the lower 48 United States. [2] U.S. portion of range only.

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Gray Wolf Recovery Plans and Recovery Implementation

Section 4(f) of the Act directs us to develop and implement recovery plans for the conservation and survival of endangered and threatened species unless we determine that such a plan will not promote the conservation of the species. Recovery plans are non-regulatory documents that identify site-specific management actions that may be necessary to achieve conservation and survival of the species. They also identify objective, measurable criteria (recovery criteria) which, when met, would result in a determination that the species should be removed from the List. Methods for monitoring recovery progress may also be included in recovery plans.

The Act does not describe recovery in terms of the proportion of historical range that must be occupied by a species, nor does it ever allude to restoration throughout the entire historical range as a conservation purpose. In fact, the Act itself does not contain the phrase ''historical range.'' Thus, the Act does not require us to restore the gray wolf (or any other species) to all of its historical range or any specific percentage of currently suitable habitat. For some species, expansion of their distribution or abundance may be necessary to achieve recovery, but the amount of expansion is driven by a species' biological needs affecting viability (ability to sustain

populations in the wild over time) and sustainability, not by an arbitrary percent of a species' historical range or currently suitable habitat. Many other species may be recovered in portions of their historical range or currently suitable habitat by removing or addressing the threats to their continued existence. And some species may be recovered by a combination of range expansion and threats reduction. There is no uniform definition for recovery and how recovery must be achieved.

As indicated in Previous Federal Actions, following our 1978 reclassification, we drafted recovery plans and implemented recovery programs for gray wolves in three regions of the contiguous United States (table 1). Wolves in one of these regions—*C. l. baileyi,* in the southwestern United States and Mexico—were recently listed separately as an endangered subspecies and are not considered in this rule (see Approach for this Proposed Rule). Wolves in another of these regions—the northern Rocky Mountains—have recovered and were delisted (table 1). We discuss recovery of wolves in the third region—the eastern United States—as it relates to the status of the gray wolf entity, below. We did not develop a recovery plan for wolves in the U.S. west coast States because we did not identify this area as necessary to the recovery of the species following our 1978 reclassification. We have not since developed a recovery plan for these wolves because we determined in our 2013 status review that they are biologically part of (although outside the legal boundary of) an already recovered and delisted population (see *National Wolf Strategy*).

Recovery Criteria

There are many paths to accomplish recovery of a species, and recovery may be achieved without all recovery criteria being fully met. We use recovery criteria in concert with evidence that threats have been minimized sufficiently and populations have achieved long-term viability to determine when a species can be reclassified from endangered to threatened or delisted. Recovery of a species is a dynamic process requiring adaptive management that may, or may not, fully follow the guidance provided in a recovery plan. Recovery plans, including recovery criteria, are subject to change based upon new information and are revised accordingly and when practicable. In a similar sense, implementation of planned actions is subject to changing information and availability of resources. We have taken these considerations into account in the following discussion.

The 1978 Recovery Plan (hereafter Recovery Plan) and the 1992 Revised Recovery Plan for the Eastern Timber Wolf (hereafter Revised Recovery Plan) were developed to guide recovery of the eastern timber wolf subspecies. Those recovery plans contain the same two recovery criteria, which are meant to indicate when recovery of the eastern timber wolf throughout its historical range in the eastern United States has been achieved. The first recovery criterion states that the survival of the wolf in Minnesota must be assured. We, and the Eastern Timber Wolf Recovery Team (Peterson *in litt.* 1997, 1998, 1999a, 1999b), have concluded that this recovery criterion remains valid. It addresses a need for reasonable assurances that future State, tribal, and Federal wolf management and protection will maintain a viable recovered population of wolves within the borders of Minnesota for the foreseeable future.

Although the recovery criteria identified in the Recovery Plan predate identification of the conservation biology principles of representation (conserving the adaptive genetic diversity of a taxon), resiliency (ability to withstand demographic and environmental variation), and redundancy (sufficient populations to provide a margin of safety), those principles were incorporated into the recovery criteria. The Recovery Team insisted that the remnant Minnesota wolf population be maintained and protected to achieve wolf recovery in the eastern United States. Maintenance of the Minnesota wolf population is vital in terms of representation because these wolves include both western gray wolves and wolves that are admixtures of western gray wolves and eastern wolves. In other words, they contain the genetic components of both western gray wolves and eastern wolves. The successful growth of the remnant Minnesota population has maintained and maximized the representation of that genetic diversity among wolves in the Great Lakes area.

Maintenance of the Minnesota wolf population is also vital in terms of resiliency. Although the Revised Recovery Plan did not establish a specific numerical criterion for the Minnesota wolf population, it did identify, for planning purposes only, a population goal of 1,251–1,400 animals for that Minnesota population (USFWS 1992, p. 28). A population of this size not only increases the likelihood of maintaining its genetic diversity over the long term, but also reduces the adverse impacts of unpredictable demographic and environmental events. Furthermore, the Revised Recovery Plan recommends a wolf population that is spread across about 40 percent of Minnesota (Zones 1 through 4) (USFWS 1992, p. 28), adding a geographic component to the resiliency of the Minnesota wolf population.

The second recovery criterion in the Recovery Plan states that at least one viable wolf population should be reestablished within the historical range of the eastern timber wolf outside of Minnesota and Isle Royale, Michigan (USFWS 1992, pp. 24–26). The reestablished population enhances both the resiliency and redundancy of the Great Lakes metapopulation.

The Recovery Plan provides two options for reestablishing this second population. If it is an isolated population, that is, located more than 100 miles (mi) (160 kilometers (km)) from the Minnesota wolf population, the second population should consist of at least 200 wolves for at least 5 years, based upon late-winter population estimates, to be considered viable. Late-winter estimates are made at a time when most winter mortality has already occurred and before the birth of pups, thus, the count is made at the annual low point of the population. Alternatively, if the second population is located within 100 mi (160 km) of a self-sustaining wolf population (for example, the Minnesota wolf population), it should be maintained at a minimum of 100 wolves for at least 5 years, based on late-winter population estimates, to be considered viable. A nearby second population would be considered viable at a smaller size because it would be geographically close enough to exchange wolves with the Minnesota population (that is, they would function as a metapopulation), thereby bolstering the smaller second population both genetically and numerically.

The original Recovery Plan did not specify where in the eastern United States the second population should be reestablished. Therefore, the second population could have been established anywhere within the triangular Minnesota-Maine-Florida area covered by the Recovery Plan and the Revised Recovery Plan, except on Isle Royale (Michigan) or within Minnesota. The Revised Recovery Plan identified potential gray wolf reestablishment areas in northern Wisconsin, the Upper Peninsula of Michigan, the Adirondack Forest Preserve of New York, a small area in eastern Maine, and a larger area of northwestern Maine and adjacent northern New Hampshire (USFWS

1992, pp. 56–58). Neither the 1978 nor the 1992 recovery criteria suggest that the establishment of gray wolves throughout all or most of what was thought to be its historical range in the eastern United States, or to all of the identified potential reestablishment areas, is necessary to achieve recovery under the Act.

In 1998, the Eastern Timber Wolf Recovery Team clarified the application of the recovery criterion for the second population to the wolf population that had developed in northern Wisconsin and the adjacent Upper Peninsula of Michigan. This second population is less than 100 mi (160 km) from the Minnesota wolf population. The Recovery Team recommended that the numerical recovery criterion for the Wisconsin-Michigan population be considered met when consecutive late-winter wolf surveys document that the population equals or exceeds 100 wolves (excluding Isle Royale wolves) for the 5 consecutive years between the first and last surveys (Peterson *in litt.* 1998).

Recovery Progress

Wolves in the Great Lakes area greatly exceed the recovery criteria (USFWS 1992, pp. 24–26) for (1) a secure wolf population in Minnesota, and (2) a second population outside Minnesota and Isle Royale consisting of 100 wolves for 5 successive years. Based on the eight surveys conducted since 1998, the wolf population in Minnesota has exceeded 2,000 individuals over the past 20 years, and populations in Michigan and Wisconsin have exceeded 100 individuals every year since 1996 (USFWS 2018, appendix 1). Based on the criteria set by the Eastern Wolf Recovery Team in 1992 and reaffirmed in 1997 and 1998 (Peterson *in litt.* 1997, *in litt.* 1998), this region contains sufficient wolf numbers and distribution to ensure the long-term survival of the gray wolf entity.

The maintenance and expansion of the Minnesota wolf population has allowed for the preservation of the genetic diversity that remained in the Great Lakes area when its wolves were first protected in 1974. Furthermore, the Wisconsin-Michigan wolf population far exceeds the numerical recovery criterion even for a completely isolated second population. Therefore, even in the unlikely event that this two-State population were to become totally isolated and wolf immigration from Minnesota and Ontario completely ceased, it would still remain a viable wolf population for the foreseeable future, as defined by the Revised Recovery Plan (USFWS 1992, pp. 25–26). Finally, each of the wolf populations in Wisconsin and Michigan has exceeded 200 animals for about 20 years, so if either were somehow to become isolated, they would remain viable, and each State has committed to manage its wolf population at or above viable population levels. The wolf's numeric and distributional recovery criteria in the Great Lakes area have been met.

Historical Context of Our Analysis

When reviewing the current status of a species, it is important to understand and evaluate the effects of lost historical range on the viability of the species in its current range. In fact, when we consider the status of a species in its current range, we are considering whether, without the species' lost historical range, the species is endangered or threatened. Range reduction may result in: Reduced numbers of individuals and populations; changes in available resources (such as food) and, consequently, range carrying capacity; changes in demographic characteristics (survival, reproductive rate, metapopulation structure, etc.); and changes in genetic diversity and gene flow. These in turn can increase a species' vulnerability to a wide variety of threats, such as habitat loss, restricted gene flow, or having all or most of its populations affected by a catastrophic event such as a hurricane, fire, or disease outbreak. In other words, past range reduction can reduce the redundancy, resiliency, and representation of a species in its remaining range, such that a species may meet the definition of an ''endangered species'' or ''threatened species'' under the Act. Thus, loss of historical range is not necessarily determinative of a species' status, but must be considered in the context of all factors affecting a species. In addition to considering the effects that loss of historical range has had on the current and future viability of the species, we must also consider the causes of that loss of historical range. If the causes of the loss are still continuing, then that loss is also relevant as evidence of the effects of an ongoing threat.

As indicated above, gray wolves historically occupied most of the range of the gray wolf entity (see Historical Range). The gray wolf range of the gray wolf entity began receding after the arrival of Europeans as a result of deliberate killing of wolves by humans and government funded bounty programs aimed at eradication (USFWS 2018, pp. 7–11). Further, many historical habitats were converted into agricultural land (Paquet and Carbyn 2003, p. 483), and natural food sources such as deer and elk were reduced, eliminated, or replaced with domestic livestock, which can become anthropogenic food sources for gray wolves (Young 1944 *in* Fritts *et al.* 1997, p. 8). The resulting reduction in range and population were dramatic—by the 1970s gray wolves occupied only a small fraction of their historical range (figure 2). Although the range of the gray wolf in the gray wolf entity has significantly expanded since 1978, its size and distribution remain below historical levels. Today, gray wolves within the gray wolf entity exist as a metapopulation spread across northern Minnesota, Michigan, and Wisconsin, and a small number of colonizing wolves in the west coast United States (USFWS 2018, pp. 22–23) (figure 2).

The alterations to gray wolf historical numbers and populations within the gray wolf entity increased the vulnerability of the gray wolf entity to a wide variety of threats that would not be at issue without such massive range reduction. Some of these threats were identified in the 1978 reclassification (43 FR 9607, March 9, 1978), including reduction in available food (prey) resources, and direct killing by humans. In addition to these considerations, in this proposed rule we also consider availability of suitable habitat, disease and parasites, and climate change. We analyze these potential threats to the gray wolf entity below under Summary of Factors Affecting the Species.

While range reduction may also result in changes in genetic diversity and gene flow, or cause changes in population demographics, we do not address genetic diversity or demographics of the gray wolf entity below because we are not aware of any information indicating that these are potential threats to wolves in the gray wolf entity. Wolves in the entity appear to be genetically and demographically healthy. Not only do they include wolves of differing and mixed genetic origin, but they exist as part of larger metapopulations—adverse effects resulting from genetic drift, demographic shifts, and local environmental fluctuations can be countered by influxes of individuals and their genetic diversity from other subpopulations of the metapopulation.

Summary of Factors Affecting the Species

Section 4 of the Act (16 U.S.C. 1533) and its implementing regulations (50 CFR part 424) set forth the procedures for adding species to, reclassifying species on, or removing species from the Federal List of Endangered and

Threatened Wildlife (List). We may determine a species to be an endangered species or threatened species due to one or more of the five factors described in section 4(a)(1) of the Act: (A) The present or threatened destruction, modification, or curtailment of its habitat or range; (B) overutilization for commercial, recreational, scientific, or educational purposes; (C) disease or predation; (D) the inadequacy of existing regulatory mechanisms; and (E) other natural or manmade factors affecting its continued existence. Listing actions may be warranted based on any of these five factors, singly or in combination. We must consider these same five factors in reclassifications of species (changing the status from threatened to endangered or vice versa), and removing a species from the List (delisting) because it is no longer endangered or threatened (50 CFR 424.11(c), (d)). For species that are already listed as endangered or threatened, this analysis of threats is an evaluation of threats that existed at the time of listing, threats currently facing the species, and the threats that are reasonably likely to affect the species in the foreseeable future, and the impact of the removal or reduction of the Act's protections following a delisting or downlisting (*i.e.,* reclassification from endangered to threatened).

For the purposes of this proposed rule, we define the ''foreseeable future'' to be the extent to which, given the amount and substance of available data, we can anticipate events or effects, or reliably extrapolate threat trends that relate to the status of the gray wolf entity. It took a considerable length of time for public attitudes and regulations to result in a social climate that promoted and allowed for wolf recovery within the gray wolf entity. The length of time over which this shift occurred, and the ensuing stability in those attitudes, gives us confidence that this social climate will persist. Also, the Great Lakes States, which contain the vast majority of wolves within the gray wolf entity, have had a solid history of cooperating with and assisting in wolf recovery and have made a commitment, through legislative actions, to continue these activities. Washington, Oregon, and California are also committed to conserving wolves as demonstrated by development of management plans and laws and regulations that protect wolves. We are not aware of any information indicating that the commitment of the Great Lakes States and west coast States to gray wolf conservation will change and conclude that this commitment will continue. When evaluating the available information, with respect to foreseeable future, we take into account reduced confidence as we forecast further into the future. Finally, we note that there is a proposed revision to 50 CFR part 424 that creates a regulatory framework for the phrase ''foreseeable future.'' This proposal is not a departure from how we have implemented the phrase, but rather is meant to codify the framework we have been implementing. Thus, while we are not bound to the proposed revised regulations because they are not final, our interpretation of ''foreseeable future'' in this rule is consistent with them.

In considering what factors might constitute threats, we must look beyond the exposure of the species to a particular factor to evaluate whether the species may respond to the factor in a way that causes actual impacts to the species. If there is exposure to a factor and the species responds negatively, the factor may be a threat, and during the status review, we attempt to determine how significant a threat it is. The threat is significant if it drives or contributes to the risk of extinction of the species, such that the species warrants listing as endangered or threatened as those terms are defined by the Act. However, the mere identification of factors that could affect a species negatively may not be sufficient to compel a finding that the species warrants listing. The information must include evidence sufficient to suggest that the potential threat is likely to materialize and that it has the capacity (*i.e.,* it should be of sufficient magnitude and extent) to affect the species' status such that it meets the definition of an endangered species or threatened species under the Act.

Gray wolves that occur in the gray wolf entity are currently listed as endangered under the Act, except those wolves in Minnesota, which are listed as threatened. In this analysis we evaluate threat factors currently facing the gray wolf entity and those that are reasonably likely to have a negative effect on the viability of wolf populations in the gray wolf entity if the protections of the Act were not in place. Our analysis of threat factors below does not consider the potential for effects to *C. lupus* in areas where the species has been extirpated—rather, effects are considered in the context of the present population. As explained in our significant portion of the range (SPR) final policy (79 FR 37578; July 1, 2014), we take into account the effect lost historical range may have on the current and future viability of a species in the range it currently occupies, and also whether the causes of that loss are evidence of ongoing or future threats to the species. We do this through our analysis of factors affecting the species. A species' current condition reflects the effects of historical range loss and, because threat factors are evaluated in the context of the species' current condition, historical range contraction may affect the outcome of our analysis.

Based on our review of the best available scientific and commercial information, we have identified several factors that could potentially be significant threats to the gray wolf entity. We summarize our analysis of these factors, and factors identified at the time of listing, below. We considered and evaluated the best available scientific and commercial data for our analyses.

Human-Caused Mortality

Human-caused mortality was identified as the main factor causing the decline of gray wolves at the time of listing (43 FR 9611, March 9, 1978), and an active eradication program is the sole reason that wolves were extirpated from their historical range in the United States (Weaver 1978, p. i). European settlers attempted to eliminate the wolf entirely, primarily due to the threat or reality of attacks on livestock, and the U.S. Congress passed a wolf bounty that covered the Northwest Territories in 1817. Bounties on wolves subsequently became the norm for States across the species' range. For example, in Michigan, an 1838 wolf bounty became the ninth law passed by the First Michigan Legislature; this bounty remained in place until 1960. A Wisconsin bounty was instituted in 1865 and was repealed about the time wolves were extirpated from the State in 1957. Minnesota maintained a wolf bounty until 1965. As the first provisional governments in the Pacific Northwest region were formed, they too enacted wolf bounties (Hampton 1997, pp. 107–108).

Protection of the gray wolf under the Act and State endangered-species statutes prohibited the intentional killing of wolves except under very limited circumstances, such as in defense of human life, for scientific or conservation purposes, or under special regulations intended to reduce wolf depredations of livestock or other domestic animals. Aside from the reintroduction of wolves into portions of the northern Rocky Mountains, the regulation of human-caused wolf mortality is the primary reason wolf numbers have significantly increased and their range has expanded since the mid-to-late 1970s.

Two Minnesota studies provide some limited insight into the extent of human-caused wolf mortality before and after the species' listing. On the basis of bounty data from a period that predated wolf protection under the Act by 20 years, Stenlund (1955, p. 33) found an annual human-caused mortality rate of 41 percent. Fuller (1989, pp. 23–24) provided 1980–86 data from a north-central Minnesota study area and found an annual human-caused mortality rate of 29 percent, a figure that includes 2-percent mortality from legal depredation-control actions. Drawing conclusions from comparisons of these two studies, however, is difficult due to the confounding effects of habitat quality, exposure to humans, prey density, differing time periods, and vast differences in study design. Nonetheless, these figures provide clear support for the contention that human-caused mortality decreased significantly once the wolf became protected under the Act.

Humans kill wolves for a number of reasons. In locations where people, livestock, and wolves coexist, some wolves are killed to resolve conflicts with livestock and pets (Fritts *et al.* 2003, p. 310; Woodroffe *et al.* 2005, pp. 86–107, 345–347). Occasionally, wolves are killed accidentally (*e.g.,* wolves are hit by vehicles, mistaken for coyotes and shot, caught in traps set for other animals, or subject to accidental capture-related mortality during conservation or research efforts) (Bangs *et al.* 2005, p. 346). A few wolves have been killed by people who stated that they believed their physical safety was being threatened. Many wolf killings, however, are intentional, illegal, and never reported to authorities.

The number of illegal killings is difficult to estimate and impossible to accurately determine because they generally occur with few witnesses. Illegal killing was estimated to make up 70 percent of the total mortality rate in a north-central Minnesota wolf population and 24 percent in the northern Rocky Mountains population (Liberg *et al.* 2011, pp. 3–5). Liberg *et al.* (2011, pp. 3–5) suggest more than two-thirds of total poaching may go undetected, and that illegal killing may pose a threat to wolves; however, poaching has not prevented population resurgence in either the Great Lakes area or the northern Rocky Mountains, as evidenced by population growth in those areas.

Vehicle collisions contribute to wolf mortality rates throughout their range in the lower 48 United States. This type of mortality is expected to rise with increasing wolf populations and as wolves colonize areas with more human development and a denser network of roads and vehicle traffic; however, mortalities due to vehicle collisions will likely constitute a small proportion of total mortalities.

Each of the States in the current range of gray wolves in the contiguous United States conduct scientific research and monitoring of wolf populations. Even the most intensive and disruptive of these activities (anesthetizing for the purpose of radio-collaring) involves a very low rate of mortality for wolves (73 FR 10542, February 27, 2008). We expect that capture-related mortality during wolf monitoring, nonlethal control, and research activities will remain below three percent of the wolves captured, and will have an insignificant impact on population dynamics.

We are unaware of any wolves that have been removed from the wild solely for educational purposes in recent years. Wolves that are used for such purposes are typically privately held captive-reared offspring of wolves that were already in captivity for other reasons. However, States may get requests to place wolves that would otherwise be euthanized in captivity for research or educational purposes. Such requests have been and will continue to be rare, would be closely regulated by the State wildlife-management agencies through the requirement for State permits for protected species, and would not substantially increase human-caused wolf mortality rates.

Other sources of human-caused mortality include intentional and legal actions, such as lethal depredation control and killing wolves in defense of human life or property. Although most wolf-human conflicts are solved using nonlethal methods, in a few instances lethal control is warranted to control a wolf to protect human life and property. The number of wolves killed for this purpose is small. For example, from 2004 to 2014, State or Federal agents killed 26 wolves for these purposes in the State of Michigan (an average of around 0.5 percent of the population each year) (Roell *et al.* 2010, p. 9; Beyer *in litt.* 2018). In the western States, since the first pack was confirmed in Washington in 2008, one wolf has been killed by a private individual who claimed self-defense. Although the number of wolves killed in defense of human life and property may be slightly higher in areas with greater human density and may increase after delisting as authority for this action expands (see Post-delisting Management), overall this type of mortality is rare and is not expected to have a significant impact on wolf populations.

Lethal control of depredating wolves was authorized in Minnesota while wolves have been listed (under the authority of a regulation (50 CFR 17.40(d)) under section 4(d) of the Act), but such control was not authorized in Michigan or Wisconsin, except for the several years when such control was authorized under a permit from the USFWS or while wolves were delisted under previous actions. Lethal control of depredating wolves is not authorized in the listed portion of Oregon, Washington, or in California. The Minnesota wolf-depredation-control program euthanized from 20 (in 1982) to 262 (in 2015) wolves annually, and averaged between 2.2 to 7.6 percent of the wolf population annually. During the times wolves were listed and depredation control was the primary means of management in the State, the Minnesota wolf population continued to grow or remain stable while experiencing these levels of lethal control. During the times that lethal control of depredating wolves was conducted in Wisconsin and Michigan, there was no evidence of resulting adverse impacts to the maintenance of a viable wolf population in those States. In Wisconsin, a total of 256 wolves were killed for depredation control in the State, including 46 legally shot by private landowners, during the 59 months that wolves were delisted in the State. A total of 50 wolves were killed by the Michigan Department of Natural Resources (MI DNR) and the U.S. Department of Agriculture, Animal and Plant Health Inspection Service (USDA–APHIS), Wildlife Services in response to depredation events during that time period. Following delisting, wolf depredation control in Wisconsin and Michigan would again occur, and be carried out according to their State management plans. We anticipate the level of mortality due to depredation control that would take place would be similar to what was observed during those times. See the Post-delisting Management section for a more detailed discussion of legal control of problem wolves (primarily for depredation control).

Regulated public harvest is another form of human-caused mortality that has occurred in the Great Lakes area during periods when wolves were delisted and will likely occur in Minnesota, Wisconsin, and Michigan if wolves are delisted again. Using an adaptive-management approach that adjusts harvest based on population estimates and trends, the initial objectives of States may be to lower wolf

populations then manage for sustainable populations, similar to how States manage all other game species. See the Post-delisting Management section for a more detailed discussion of legal harvest.

Regulation of human-caused mortality has significantly reduced the number of wolf mortalities caused by humans, and although illegal and accidental killing of wolves is likely to continue with or without the protections of the Act, at current levels those mortalities have had little impact on wolf populations. Legal human-caused mortality, primarily in the form of lethal depredation control and regulated harvest, will increase if wolves are delisted, as these are the primary human-caused mortality factors that State agencies can manipulate to achieve management objectives. However, the high reproductive potential of wolves and the innate behavior of wolves to disperse and locate social openings allows wolf populations to withstand relatively high rates of human-caused mortality.

We note that the principle of compensatory mortality was previously believed to occur in wolf populations. This means that human-caused mortality is not simply added to ''natural'' mortality, but rather replaces a portion of it. Creel and Rotella (2010) reexamined this concept with regard to wolves and found that, contrary to the previously held belief, wolf population growth declined as human-caused mortality increased (Creel and Rotella 2010, p. 3). Their study concludes that wolves can be harvested within limits, but that human-caused mortality was strongly additive in total mortality (Creel and Rotella 2010, p. 6).

The wolf population in the northern Rocky Mountains States of Idaho, Montana, and Wyoming provides a good example of the effects of increased human-caused mortality on population growth rates. From 1995 to 2008, wolf populations increased an average of 23 percent annually (range: 9 percent to 50 percent; USFWS *et al.* 2016, table 6b), while from 1999 to 2008, human-caused mortality removed an average of approximately 12 percent of the minimum estimated population each year (range: 7 percent to 16 percent; see USFWS *et al.* 2000–2009). Between 2009 and 2015, some or all of the northern Rocky Mountains States (dependent upon the Federal status of wolves) instituted fair-chase wolf hunting seasons with the objective of slowing or reversing population growth while continuing to maintain wolf populations well above federal recovery requirements in their respective States. During those years when legal harvest occurred, human-caused mortality increased to an average of 29 percent of the minimum estimated population (range: 23 percent to 36 percent; see USFWS *et al.* 2010, 2012–2016), while the annual growth rate declined to an average of approximately 1 percent annually (range: -7 percent to 4 percent; see USFWS *et al.* 2010, 2012–2016). Where harvest occurs, the species' high levels of reproduction and immigration can compensate for mortality rates of 17 percent to 48 percent (USFWS 2018, p. 6). Thus, although 2009 to 2015 is a relatively short time period from which to draw inferences, the population trends observed in the Northern Rocky Mountains suggest that the northern Rocky Mountains wolf population may be able to sustain an approximate 30 percent annual human-caused mortality rate while continuing to maintain a stable to slightly increasing population.

The States of Minnesota, Michigan, and Wisconsin have committed to continue to regulate human-caused mortality so that it does not reduce the wolf population below recovery level and have adequate laws and regulations to fulfill those commitments and ensure that the wolf population in the Great Lakes area remains above recovery levels (See Post-delisting Management). Washington, Oregon, and California are also committed to conserving wolves as demonstrated by development of management plans and laws and regulations that protect wolves. Furthermore, each post-delisting management entity (State, Tribal, and Federal) has experienced and professional wildlife staff to ensure those commitments can be accomplished.

Effects on Wolf Social Structure

Human-caused mortality of reproductive gray wolves could negatively affect gray wolf populations because wolves have a complex social system in which usually only the dominant male and female in a pack breed. Consequently, the death of one or both of the breeders may negatively affect the pack (by leading to pack dissolution) and the population as a whole (by slowing or reducing population growth). However, studies indicate these effects are context-dependent and that the availability of replacement breeders and timing of mortality can moderate the consequences of breeder loss (Borg *et al.* 2014, entire; Brainerd *et al.* 2008, entire). In populations that are at or near carrying capacity, where breeder replacement and subsequent reproduction occurs relatively quickly, population growth rate is largely unaffected by breeder loss (Borg *et al.* 2014, pp. 6–7). Large colonizing populations (> 75 wolves) have similar times to breeder replacement and subsequent reproduction as populations at or near carrying capacity, while small recolonizing populations (≤75 wolves) take about twice as long to replace breeders and subsequently reproduce (Brainerd *et al.* 2008, pp. 89, 93). Therefore, the effects of breeder loss may be greatest on small recolonizing gray wolf populations. Studies also indicate that mortality of breeding gray wolves is more likely to lead to pack dissolution and reduced reproduction when mortality occurs during the breeding season (Borg *et al.* 2014, p. 8) and when pack sizes are small (Borg *et al.* 2014, pp. 5–6; Brainerd *et al.* 2008, p. 94).

Gray wolf pack social structure is very adaptable and resilient. Breeding members can be quickly replaced from either within or outside the pack, and pups can be reared by another pack member should their parents die (USFWS 2018, p. 6). Consequently, wolf populations can rapidly overcome severe disruptions, such as pervasive human-caused mortality or disease. Although we acknowledge that breeder loss can and will occur in the future regardless of Federal status, we conclude that the effects of breeder loss on wolf populations (or the gray wolf entity) as a whole are likely to be minimal as long as adequate regulatory mechanisms are in place to ensure sufficient population size is maintained.

The Role of Public Attitudes

In our 1978 rule reclassifying wolves, we indicated that regulations prohibiting the killing of wolves, even wolves that may be attacking livestock and pets, such as the Federal regulations in place at that time in Minnesota, may work against gray wolves by creating an adverse public attitude toward the species. We acknowledge that public attitudes towards wolves vary with demographics, change over time, and can affect human behavior toward wolves, including poaching (illegal killing) of wolves (see the following studies and reviews: Kellert 1985, 1990, 1999; Nelson and Franson 1988; Kellert *et al.* 1996; Wilson 1999; Browne-Nuñez and Taylor 2002; Williams *et al.* 2002; Manfredo *et al.* 2003; Naughton-Treves *et al.* 2003; Schanning 2009; Mertig 2004; Chavez *et al.* 2005; Schanning and Vazquez 2005; Beyer *et al.* 2006; Hammill 2007; Treves *et al.* 2009; Wilson and Bruskotter 2009; Treves and Martin 2011; Treves *et al.* 2013; Madden and McQuinn 2014). However, the factors that affect people's attitudes and

behaviors toward wolves are not well understood (Treves and Bruskotter 2014, entire; Treves *et al.* 2013, p. 316 and references therein; also see Olson *et al.* 2014, entire and Chapron and Treves 2016, entire). Thus, it is unclear how delisting and the changes in wolf management subsequent to delisting, such as implementation of wolf harvests, may affect attitudes, human behavior and, ultimately, wolf mortality.

We expect that some segments of the public will be more tolerant of wolf management at the State level because it may be perceived by some as more flexible than Federal regulation, whereas other segments may continue to prefer Federal management due to a perception that it is more protective. State wildlife agencies have professional staff dedicated to disseminating accurate, science-based information about wolves and wolf management within their respective States. In addition, several States have convened advisory committees to engage stakeholders in discussing and addressing conflicts related to wolves (for example, Washington (*https://wdfw.wa.gov/about/advisory/wag/*) and Wisconsin (*https://dnr.wi.gov/topic/WildlifeHabitat/wolf/committee.html*)). As the status and management of the gray wolf evolves, continued collaboration between managers and researchers to monitor public attitudes toward wolves and their management will be necessary.

Human-Caused Mortality Summary

Despite human-caused mortalities of wolves, wolf populations have continued to increase in both numbers and range. Wolf population growth will likely slow as densities increase in suitable habitat. Wolves are less likely to persist in more unfavorable habitats due to depredation management, illegal killing, incidental mortality (for example, vehicle collision), natural mortality (disease, starvation, and intraspecific aggression), and other means. Once wolf populations become established, we should expect to see populations fluctuate around an equilibrium resulting from fluctuations in birth and mortality rates.

Minnesota, Wisconsin, and Michigan will utilize adaptive management to respond to wolf population increases or decreases to maintain populations at sustainable levels well above management objectives. State management plans in these three states that would be implemented following delisting manage for a minimum wolf population of 1,600 in Minnesota, 250 in Wisconsin (with a management goal of 350), and 200 in Michigan. These minimum population numbers are well above Federal recovery requirements defined in the Eastern Timber Wolf Recovery Plan. As wolf population numbers are currently much higher in each of these three States, we can expect to see some reduction in wolf populations in the Great Lakes areas if they are delisted as States implement lethal depredation control and begin to institute wolf hunting seasons with the objective of slowing or reversing population growth. However, the ultimate goal of these three States is to maintain wolf populations well above Federal recovery requirements in their respective States.

The 2010 State management plan for Oregon and the 2016 plan for California do not include population-management goals (Oregon Department of Fish and Wildlife (ODFW) 2010, p. 27; California Department of Fish and Wildlife (CDFW) 2016a, p. 12); however, this is likely to be addressed in the forthcoming Oregon plan revision as the draft plan revision currently suggests that 300 wolves are the ''minimum population management threshold'' for the State (ODFW 2017, p. 17). While the 2011 Washington State management plan does not include population-management goals, it includes recovery objectives intended to ensure the reestablishment of a self-sustaining population of wolves in Washington (Wiles *et al.* 2011, p. 9; also see *Post-delisting Management in the West*). In these States, wolf populations will likely be managed to ensure progress towards recovery objectives while also minimizing livestock losses caused by wolves.

Habitat and Prey Availability

Gray wolves are habitat generalists (Mech and Boitani 2003, p. 163) and once occupied or transited most of the United States, except the southeast. However, much of the historical range of gray wolves (Chambers *et al.* 2012, pp. 34–42) in the contiguous United States has been modified due to human use. While lone wolves can travel through, or temporarily live, almost anywhere (Jimenez *et al.* 2017, p. 1), large portions of gray wolf historical range is no longer suitable habitat to support wolf packs (Oakleaf *et al.* 2006, p. 559; Carroll *et al.* 2006, p. 32, Mladenoff *et al.* 1995, p. 287). Much of the area that wolves currently occupy corresponds to what is considered ''suitable'' wolf habitat in the lower 48 States as modeled by Oakleaf *et al.* (2006, entire), Carroll *et al.* (2006, entire), Mladenoff (1995, entire), and Mladenoff *et al.* (1999, entire). It is also expected that wolves will continue to recolonize areas of the Pacific Northwest where suitable habitat has been identified (Maletzke *et al.* 2015, entire; ODFW 2015, entire). We consider suitable habitat as forested terrain containing adequate wild ungulate populations (elk, white-tailed deer, and mule deer) to support a wolf population. Suitable habitat has minimal roads and human development, as human access to areas inhabited by wolves can result in wolf mortality.

Great Lakes Area: Suitable Habitat

Various researchers have investigated habitat suitability for wolves in the central and eastern portions of the United States. Most of these efforts have focused on using a combination of human density, density of agricultural lands, deer density or deer biomass, and road density, or have used road density alone to identify areas where wolf populations are likely to persist or become established (Mladenoff *et al.* 1995, pp. 284–285; 1997, pp. 23–27; 1998, pp. 1–8, 1999; pp. 39–43; Harrison and Chapin 1997, p. 3; 1998, pp. 769–770; Wydeven *et al.* 2001, pp. 110–113; Erb and Benson 2004, p. 2; Potvin *et al.* 2005, pp. 1661–1668; Mladenoff *et al.* 2009, pp. 132–135).

To a large extent, road density has been adopted as the best predictor of habitat suitability in the Midwest due to the connection between roads and human-caused wolf mortality. Several studies demonstrated that wolves generally did not maintain breeding packs in areas with a road density greater than about 0.9 to 1.1 linear mi per mi^2 (0.6 to 0.7 km per km^2) (Thiel 1985, pp. 404–406; Jensen *et al.* 1986, pp. 364–366; Mech *et al.* 1988, pp. 85–87; Fuller *et al.* 1992, pp. 48–51). Work by Mladenoff and associates indicated that colonizing wolves in Wisconsin preferred areas where road densities were less than 0.7 mi per mi^2 (0.45 km per km^2) (Mladenoff *et al.* 1995, p. 289). However, research in the Upper Peninsula of Michigan indicates that, in some areas with low road densities, low deer density appears to limit wolf occupancy (Potvin *et al.* 2005, pp. 1667–1668) and may prevent recolonization of portions of the Upper Peninsula. In Minnesota, a combination of road density and human density is used by Minnesota Department of Resources (MN DNR) to model suitable habitat. Areas with a human density up to 20 people per mi^2 (8 people per km^2) are suitable if they also have a road density less than 0.8 mi per mi^2 (0.5 km per km^2). Areas with a human density of less than 10 people per mi^2 (4 people per km^2) are suitable if they have road

densities up to 1.1 mi per mi² (0.7 km per km²) (Erb and Benson 2004, table 1).

Road density is a useful parameter because it is easily measured and mapped, and because it correlates directly and indirectly with various forms of other human-caused wolf mortality factors. A rural area with more roads generally has a greater human density, more vehicular traffic, greater access by hunters and trappers, more farms and residences, and more domestic animals. As a result, there is a greater likelihood that wolves in such an area will encounter humans, domestic animals, and various human activities. These encounters may result in wolves being hit by motor vehicles, being controlled by government agents after becoming involved in depredations on domestic animals, being shot intentionally by unauthorized individuals, being trapped or shot accidentally, or contracting diseases from domestic dogs (Mech *et al.* 1988, pp. 86–87; Mech and Goyal 1993, p. 332; Mladenoff *et al.* 1995, pp. 282, 291). Based on mortality data from radio-collared Wisconsin wolves from 1979 to 1999, natural causes of death predominate (57 percent of mortalities) in areas with road densities below 1.35 mi per mi² (0.84 km per km²), but human-related factors produced 71 percent of the wolf deaths in areas with higher road densities (Wydeven *et al.* 2001, pp. 112–113).

Some researchers have used a road density of 1 mi per mi² (0.6 km per km²) of land area as an upper threshold for suitable wolf habitat. However, the common practice in more recent studies is to use road density to predict probabilities of persistent wolf pack presence in an area. Areas with road densities less than 0.7 mi per mi² (0.45 km per km²) are estimated to have a greater than 50 percent probability of wolf pack colonization and persistent presence, and areas where road density exceeded 1 mi per mi² (0.6 km per km²) have less than a 10 percent probability of occupancy (Mladenoff *et al.* 1995. pp. 288–289; Mladenoff and Sickley 1998, p. 5; Mladenoff *et al.* 1999, pp. 40–41). Wisconsin researchers view areas with greater than 50 percent probability as ''primary wolf habitat,'' areas with 10 to 50 percent probability as ''secondary wolf habitat,'' and areas with less than 10 percent probability as unsuitable habitat (Wisconsin Department of Natural Resources (WI DNR) 1999, pp. 47–48).

The territories of packs that do occur in areas of high road density, and hence with low expected probabilities of occupancy, are generally near broad areas of more suitable habitat that are likely serving as a source of wolves, thereby assisting in maintaining wolf presence in the higher road density areas and, therefore, less-suitable areas (Mech 1989, pp. 387–388; Wydeven *et al.* 2001, p. 112). The predictive ability of this model was questioned (Mech 2006a, 2006b) and responded to (Mladenoff *et al.* 2006), and an updated analysis of Wisconsin pack locations and habitat was completed (Mladenoff *et al.* 2009). This model maintains that road density is still an important indicator of suitable wolf habitat; however, lack of agricultural land is also a strong predictor of habitat that wolves occupy.

It appears that essentially all suitable habitat in Minnesota is now occupied, range expansion has slowed or possibly ceased, and the wolf population within the State has stabilized (Erb and Benson 2004, p. 7; Erb and Don Carlos 2009, pp. 57, 60). This suitable habitat closely matches the areas designated as Wolf Management Zones 1 through 4 in the Revised Recovery Plan (USFWS 1992, p. 72), which are identical in area to Minnesota Wolf Management Zone A (MN DNR 2001, appendix III).

Recent surveys for Wisconsin wolves and wolf packs show that wolves have now recolonized the areas predicted by habitat models to have low, moderate, and high probability of occupancy (primary and secondary wolf habitat). The late-winter 2017–18 Wisconsin wolf survey identified packs occurring throughout the central Wisconsin forest area (Wolf Management Zone 2) and across the northern forest zone (Zone 1), with highest pack densities in the northwest and north-central forest (WI DNR 2018, entire).

Michigan wolf surveys in winter 2017–18 continue to show wolf pairs or packs (defined by Michigan DNR as two or more wolves traveling together) in every Upper Peninsula county (Huntzinger *et al.* 2005, p. 6; MI DNR 2018, entire).

Habitat suitability studies in the Upper Midwest indicate that the only large areas of suitable or potentially suitable habitat areas that are currently unoccupied by wolves are located in the northern Lower Peninsula of Michigan (Mladenoff *et al.* 1997, p. 23; Mladenoff *et al.* 1999, p. 39; Potvin 2003, pp. 44–45; Gehring and Potter 2005, p. 1239). One published Michigan study (Gehring and Potter 2005, p. 1239) estimates that these areas could host 46 to 89 wolves; a graduate thesis estimates that 110–480 wolves could exist in the northern Lower Peninsula (Potvin 2003, p. 39). The northern Lower Peninsula is separated from the Upper Peninsula by the Straits of Mackinac, whose 4-mile (6.4-km) width freezes during mid- and late-winter in some years. In recent years there have been several documented occurrences of wolves in the northern Lower Peninsula, but there has been no indication of persistence beyond several months. Prior to those occurrences, the last recorded wolf in the Lower Peninsula was in 1910.

These northern Lower Peninsula patches of potentially suitable habitat contain a great deal of private land, are small in comparison to the occupied habitat on the Upper Peninsula and in Minnesota and Wisconsin, and are intermixed with agricultural and higher-road-density areas (Gehring and Potter 2005, p. 1240). Therefore, continuing wolf immigration from the Upper Peninsula may be necessary to maintain a future northern Lower Peninsula population. The Gehring and Potter study (2005, p. 1239) predicted 850 mi² (2,198 km²) of suitable habitat (areas with greater than a 50 percent probability of wolf occupancy) in the northern Lower Peninsula. Potvin (2003, p. 21), using deer density in addition to road density, believes there are about 3,090 mi² (8,000 km²) of suitable habitat in the northern Lower Peninsula. Gehring and Potter (2005, p. 1239) exclude from their calculations those northern Lower Peninsula low-road-density patches that are less than 19 mi² (50 km²), while Potvin (2003, pp. 10–15) does not limit habitat patch size in his calculations. Both of these area estimates are well below the minimum area described in the Revised Recovery Plan, which states that 10,000 mi² (25,600 km²) of contiguous suitable habitat is needed for a viable isolated gray wolf population, and half that area (5,000 mi² or 12,800 km²) is needed to maintain a viable wolf population that is subject to wolf immigration from a nearby population (USFWS 1992, pp. 25–26).

Based on the above-described studies and the guidance of the 1992 Revised Recovery Plan, the Service has concluded that suitable habitat for wolves in the western Great Lakes area can be determined by considering four factors: road density, human density, prey base, and area. An adequate prey base is an absolute requirement, but in much of the western Great Lakes area the white-tailed deer density is well above adequate levels, causing the other factors to become the determinants of suitable habitat. Prey base is primarily of concern in the Upper Peninsula where severe winter conditions cause deer to move away from some lakeshore areas, making otherwise suitable areas locally and seasonally unsuitable. Road density and human density frequently

are highly correlated; therefore, road density is often used as a predictor of habitat suitability. However, areas with higher road density may still be suitable if the human density is very low, so a consideration of both factors is sometimes useful (Erb and Benson 2004, p. 2). Finally, although the territory of individual wolf packs can be relatively small, packs are not likely to establish territories in areas of small, isolated patches of suitable habitat.

Great Lakes Area: Prey Availability

Deer (prey) decline, due to succession of habitat and severe winter weather, was identified as a threat at the time of listing. Wolf density is heavily dependent on prey availability (for example, expressed as ungulate biomass, Fuller *et al.* 2003, pp. 170–171), and prey availability is high in the Great Lakes area. Conservation of primary wolf prey in the Great Lakes area, white-tailed deer and moose, is a high priority for State conservation agencies. As MN DNR points out in its wolf-management plan (MN DNR 2001, p. 25), it manages ungulates to ensure a harvestable surplus for hunters, nonconsumptive users, and to minimize conflicts with humans. To ensure a harvestable surplus for hunters, MN DNR must account for all sources of natural mortality, including loss to wolves, and adjust hunter harvest levels when necessary. For example, after severe winters in the 1990's, MN DNR modified hunter harvest levels to allow for the recovery of the local deer population (MN DNR 2001, p. 25). In addition to regulating the human harvest of deer and moose, MN DNR also plans to continue to monitor and improve habitat for these species.

Land management activities carried out by other public agencies and by private land owners in Minnesota's wolf range, including timber harvest and prescribed fire, incidentally and significantly improves habitat for deer, the primary prey for wolves in the State. Approximately one-half of the Minnesota deer harvest is in the Forest Zone, which encompasses most of the occupied wolf range in the State (Cornicelli 2008, pp. 208–209). There is no indication that harvest of deer and moose or management of their habitat will significantly depress abundance of these species in Minnesota's primary wolf range.

In Wisconsin, the statewide post-hunt white-tailed deer population estimate for 2017 was approximately 1,377,100 deer (Stenglein 2017, p. 1). In the Northern Forest Zone of the State, the post-hunt population estimate has ranged from approximately 250,000 deer to more than 400,000 deer since 2002. The 2017 post-hunt deer population estimate in that zone was nearly as high as it was in 2002. Three consecutive mild winters and limited antlerless harvest may explain the population growth in the northern deer herd in 2017. The Central Forest Zone post-hunt population estimates have been largely stable since 2009 at 60,000–80,000 deer on average. The Central Farmland Zone deer population has increased since 2008, and the 2017 post-hunt deer population estimate was similar to the estimate in 2016. For a third year in a row, the 2017 post-hunt deer population estimate in the Southern Farmland Zone exceeded 250,000 deer (Stenglein 2017, pp. 2, 7).

Because of severe winter conditions (persistent, deep snow) in the Upper Peninsula, deer populations can fluctuate dramatically from year to year. In 2016, the MI DNR finalized a new deer-management plan to address ecological, social, and regulatory shifts. An objective of this plan is to manage deer at the appropriate scale, considering impacts of deer on the landscape and on other species, in addition to population size (MI DNR 2016, p. 16). Additionally, the Michigan wolf-management plan addresses maintaining a sustainable population of wolf prey (MI DNR 2015, pp. 29–31). Short of a major, and unlikely, shift in deer-management and harvest strategies, there will be no shortage of prey for Wisconsin and Michigan wolves for the foreseeable future.

West Coast States: Suitable Habitat

In Washington, wolves are expected to persist in habitats with similar characteristics to those identified by Oakleaf *et al.* (2006) (Wiles *et al.* 2011, p. 50) and as described above. Several modeling studies have estimated potentially suitable wolf habitat in Washington with most predicting suitable habitat in northeastern Washington, the Blue Mountains, the Cascade Mountains, and the Olympic Peninsula. Total area estimates in these studies range from approximately 16,900 mi^2 (43,770 km^2) to 41,500 mi^2 (107,485 km^2) (Wiles *et al.* 2011, pp. 51, 53; Maletzke *et al.* 2015). The Cascade Mountains and Olympic Peninsula are both located within the boundary of the gray wolf listed entities. Current wolf-pack habitat use in Washington based on the mean home ranges of 11 packs with known territories is approximately 359 mi^2 (930 km^2), ranging from an estimated 121 mi^2 (314 km^2) to 1,164 mi^2 (3,015 km^2) (Washington Department of Fish and Wildlife (WDFW) *et al.* 2017, p. WA–6). (While 22 packs are known to occur in Washington, sufficient data is not available to estimate home ranges of the other 11.)

The Oregon Department of Fish and Wildlife (ODFW) developed a map of ''potential wolf range'' as part of its recent status review of wolves in Oregon (ODFW 2015, entire). The model used predictors of wolf habitat including land-cover type, elk range, human population density, road density, and land types altered by humans; they chose to exclude land ownership because wolves will use forested cover on both public and private lands (ODFW 2015, p. 2). Approximately 41,256 mi^2 (106,853 km^2) were identified as potential wolf range in Oregon. The resulting map coincides well with the current distribution of wolves in Oregon. The ODFW estimates that wolves occupy 31.6 percent of the potential wolf range in the east management zone (the majority of wolves here are under State management) and 2.7 percent of potential wolf range in the western management zone (all wolves here are under Federal management) (ODFW 2015, p. 9).

Habitat models developed for the northern Rocky Mountains (*e.g.,* Oakleaf *et al.* 2006; Larson and Ripple 2006; Carroll *et al.* 2006) may have limited applicability to California due to differences in geography, distribution of habitat types, distribution and abundance of prey, potential restrictions for movement, and human habitation (CDFW 2016b, pp. 154, 156). Despite these challenges, CDFW used these models to suggest that wolves are most likely to occupy three general areas: (1) The Klamath Mountains and portions of the northern California Coast Ranges; (2) the southern Cascades, the Modoc Plateau, and Warner Mountains; and (3) the Sierra Nevada Mountain Range (CDFW 2016b, p. 20). These areas were identified as having a higher potential for wolf occupancy based on prey abundance, amount of public land ownership, and forest cover, whereas other areas were less suitable due to human influences (CDFW 2016b, p. 156). As wolves continue to expand into California, models may be refined to better estimate habitat suitability and the potential for wolf occupancy.

West Coast States: Prey Availability

The Washington Department of Fish and Wildlife recently conducted a Wildlife Program 2015–2017 Ungulate Assessment to identify ungulate populations that are below management objectives or may be negatively affected by predators (WDFW 2016, entire). The

assessment covers white-tailed deer, mule deer, black-tailed deer, Rocky Mountain elk, Roosevelt elk, bighorn sheep, and moose (WDFW 2016, p. 12). Washington defines an at-risk ungulate population as one that falls 25 percent below its population objective for two consecutive years and/or one in which the harvest decreases by 25 percent below the 10-year-average harvest rate for two consecutive years (WDFW 2016, p. 13). Based on available information, the 2016 report concludes that no ungulate populations in Washington were considered to be at-risk (WDFW 2016, p. 13).

In Oregon, 20 percent of Roosevelt elk populations are below management objectives; however, the populations are generally stable within the listed gray wolf entity in western Oregon (ODFW 2017, p. 60). Rocky Mountain elk are above management objectives in 63 percent of populations and are considered to be stable or increasing across the State (ODFW 2017, p. 60). Mule deer and black-tailed deer populations peaked in the mid-1900s and have since declined, likely due to human development, changes in land use, predation, and disease (ODFW 2017, p. 61). White-tailed deer populations, including Columbia white-tailed deer, are small, but are increasing in distribution and abundance (ODFW 2017, p. 64). Deer are a secondary prey item when elk are present; areas that lack elk are only likely to support a low density of wolves (ODFW 2017, p. 56).

In California, declines of historical ungulate populations were the result of overexploitation by humans dating back to the 19th century (CDFW 2016b, p. 147). However, elk distribution and abundance have increased due to implementation of harvest regulations, reintroduction efforts, and natural expansion (CDFW 2016b, p. 147). Mule deer also experienced overexploitation, but were also more likely subject to fluctuations in habitat suitability as a result of logging, burning, and grazing. Across the West, including California, mule deer populations have been declining since the late 1960s due to multiple factors including loss of habitat, drought, predation, and competition with livestock, but, as noted above, deer are a secondary prey when elk are present (CDFW 2016b, p. 147).

Habitat and Prey Availability Summary

Sufficient suitable habitat exists for the gray wolf entity to continue to support wolves into the future. Wolf populations should remain strong in these areas with management activities that focus on wolf population reduction as needed to maintain populations of wild ungulates and reduce conflicts with livestock. Traditional land-use practices throughout the vast majority of the species' current range in the United States do not appear to be affecting the viability of wolves. We do not anticipate overall habitat changes in wolf range for the gray wolf entity will occur at a magnitude that would affect wolves in the entity rangewide because wolf populations are broadly distributed across the current range in the Great Lakes area (where most wolves occur in the entity) and are able to withstand high levels of mortality due to their high reproductive rate and vagility (the ability of an organism to move about freely and migrate) (Fuller *et al.* 2003, p. 163; Boitani 2003, pp. 328–330). Further, much of the areas occupied by the gray wolf entity occurs on public land where wolf conservation is a priority and conservation plans have been adopted to ensure continued wolf persistence (see Federal Lands discussion under Post-delisting Management) (73 FR 10514, p. 10538, February 27, 2008).

An important factor in maintaining wolf populations is the native ungulate population. Primary wild ungulate prey within the range of gray wolves in the gray wolf entity include deer and elk. Each State within wolf-occupied range for the gray wolf entity manages its wild ungulate populations to maintain sustainable populations for harvest by hunters. States employ an adaptive-management approach that adjusts hunter harvest in response to changes in big-game population numbers and trends when necessary, and predation is one of many factors considered when setting seasons. We know of no future condition that would cause a decline in ungulate populations significant enough to affect the status of gray wolves in the gray wolf entity.

Disease and Parasites

Although disease and parasites were not identified as a threat at the time of listing, a wide range of diseases and parasites have been reported for the gray wolf, and several of them have had temporary impacts during the recovery of the species in the 48 contiguous United States (Brand *et al.* 1995, p. 419; WI DNR 1999, p. 61, Kreeger 2003, pp. 202–214). Although some diseases may be destructive to individuals, most of them seldom have long-term, population-level effects (Fuller *et al.* 2003, pp. 176–178; Kreeger 2003, pp. 202–214). All States that presently have wolf populations also have some sort of disease-monitoring program that may include direct observation of wolves to assess potential disease indicators or biological sample collection with subsequent analysis at a laboratory. Although Washington has not submitted biological samples for analysis, samples have been collected and laboratory analysis is planned for the future (Roussin 2018, pers. comm.).

Canine parvovirus (CPV) infects wolves, domestic dogs (*Canis familiaris*), foxes (*Vulpes vulpes*), coyotes, skunks (*Mephitis mephitis*), and raccoons (*Procyon lotor*). Canine parvovirus has been detected in nearly every wolf population in North America including Alaska (Bailey *et al.* 1995, p. 441; Brand *et al.* 1995, p. 421; Kreeger 2003, pp. 210–211; Johnson *et al.* 1994; ODFW 2014, p. 7), and exposure in wolves is thought to be almost universal. Nearly 100 percent of the wolves handled in Montana (Atkinson 2006), Yellowstone National Park (Smith and Almberg 2007, p. 18), Minnesota (Mech and Goyal 1993, p. 331), and Oregon (ODFW 2017, p. 8) had blood antibodies indicating nonlethal exposure to CPV. Clinical CPV is characterized by severe hemorrhagic diarrhea and vomiting, which leads to dehydration, electrolyte imbalances, debility, and shock and may eventually lead to death.

Mech *et al.* (2008, p. 824) concluded that CPV reduced pup survival, subsequent dispersal, and the overall rate of population growth in Minnesota (a population near carrying capacity in suitable habitat). After the CPV became endemic in the population (around 1979), the population developed immunity and was able to withstand severe effects from the disease (Mech and Goyal 1993, pp. 331–332). These observed effects are consistent with results from studies in smaller, isolated populations in Wisconsin and on Isle Royale, Michigan (Wydeven *et al.* 1995, entire; Peterson *et al.* 1998, entire), but indicate that CPV also had only a temporary effect in a larger population.

Canine distemper virus (CDV) is an acute disease of carnivores that has been known in Europe since the sixteenth century and infects canids worldwide (Kreeger 2003, p. 209). This disease generally infects pups when they are only a few months old, so mortality in wild wolf populations might be difficult to detect (Brand *et al.* 1995, pp. 420–421). Mortality from CDV among wild wolves has been documented only in two littermate pups in Manitoba (Carbyn 1982, pp. 111–112), in two Alaskan yearling wolves (Peterson *et al.* 1984, p. 31), and in two Wisconsin wolves (an adult in 1985 and a pup in 2002 (Thomas *in litt.* 2006; Wydeven and Wiedenhoeft 2003, p. 20)). Carbyn

(1982, pp. 113–116) concluded that CDV was partially responsible for a 50-percent decline in the wolf population in Riding Mountain National Park (Manitoba, Canada) in the mid-1970s. Serological evidence indicates that exposure to CDV is high among some wolf populations—29 percent in northern Wisconsin and 79 percent in central Wisconsin from 2002 to 2003 (Wydeven and Wiedenhoeft 2003, pp. 23–24, table 7) and 2004 (Wydeven and Wiedenhoeft 2004, pp. 23–24, table 7), and similar levels in Yellowstone National Park (Smith and Almberg 2007, p. 18). Exposure to CDV was first documented in Oregon in 2016 (n=3; ODFW 2017, p. 8), but no mortalities or clinical signs of the disease were observed. The continued strong recruitment in Wisconsin and elsewhere in North American wolf populations, however, indicates that distemper is not likely a significant cause of mortality (Brand *et al.* 1995, p. 421).

Lyme disease, caused by a spirochete bacterium, is spread primarily by deer ticks (*Ixodes dammini*). Host species include humans, horses (*Equus caballus*), dogs, white-tailed deer, mule deer, elk, white-footed mice (*Peromyscus leucopus*), eastern chipmunks (*Tamias striatus*), coyotes, and wolves. Clinical symptoms have not been reported in wolves, but infected dogs can experience debilitating conditions, and abortion and fetal mortality have been reported in infected humans and horses. It is possible that individual wolves may be debilitated by Lyme disease, perhaps contributing to their mortality; however, Lyme disease is not believed to be a significant factor affecting wolf populations (Kreeger 2003, p. 212).

Mange has been detected in wolves throughout North America (Brand *et al.* 1995, pp. 427–428; Kreeger 2003, pp. 207–208). Mange mites (*Sarcoptes scabeii*) infest the skin of the host, causing irritation due to feeding and burrowing activities. This causes intense itching that results in scratching and hair loss. Mortality may occur due to exposure, primarily in cold weather, emaciation, or secondary infections (Kreeger 2003, pp. 207–208). Mange mites are spread from an infected individual through direct contact with others or through the use of common areas. In a long-term Alberta wolf study, higher wolf densities were correlated with increased incidence of mange, and pup survival decreased as the incidence of mange increased (Brand *et al.* 1995, pp. 427–428). Mange has been shown to temporarily affect wolf population growth-rates in some areas (Kreeger 2003, p. 208), but not others (Wydeven *et al.* 2009b, pp. 96–97). In Montana and Wyoming, proportions of packs with mange fluctuated between 3 and 24 percent annually from 2003 to 2008 (Jimenez *et al.* 2010; Atkinson 2006, p. 5; Smith and Almberg 2007, p. 19). In packs with the most severe infestations, pup survival appeared low, and some adults died (Jimenez *et al.* 2010); however, evidence suggests infestations do not normally become chronic because wolves often naturally overcome them.

Dog-biting lice (*Trichodectes canis*) commonly feed on domestic dogs, but can infest coyotes and wolves (Schwartz *et al.* 1983, p. 372; Mech *et al.* 1985, p. 404). The lice can attain severe infestation levels, particularly in pups. The worst infestations can result in severe scratching, irritated and raw skin, substantial hair loss particularly in the groin, and poor condition. While no wolf mortality has been confirmed, death from exposure and/or secondary infection following self-inflicted trauma caused by inflammation and itching may be possible. Dog-biting lice were confirmed on two wolves in Montana in 2005, on a wolf in southcentral Idaho in early 2006 (Service *et al.* 2006, p. 15; Atkinson 2006, p. 5; Jimenez *et al.* 2010), and in 4 percent of Minnesota wolves in 2003 through 2005 (Paul *in litt.* 2005), but their infestations were not severe. Dog-biting lice infestations are not expected to have a significant impact even at a local scale.

Other diseases and parasites, including rabies, canine heartworm, blastomycosis, bacterial myocarditis, granulomatous pneumonia, brucellosis, leptospirosis, bovine tuberculosis, hookworm, coccidiosis, and canine hepatitis have been documented in wild wolves, but their impacts on future wild wolf populations are not likely to be significant (Brand *et al.* 1995, pp. 419–429; Hassett *in litt.* 2003; Johnson 1995, pp. 431, 436–438; Mech and Kurtz 1999, pp. 305–306; Thomas *in litt.* 1998, Thomas *in litt.* 2006, WI DNR 1999, p. 61; Kreeger 2003, pp. 202–214). Continuing wolf range expansion, however, likely will provide new avenues for exposure to several of these diseases, especially canine heartworm, raccoon rabies, and bovine tuberculosis (Thomas *in litt.* 2000; Thomas *in litt.* 2006), further emphasizing the importance of disease-monitoring programs.

Effects of Climate Change

Effects of climate change were not identified as threats at the time of listing. While it is possible that climate change could affect gray wolves to some extent, such as through impacts to prey species (Hendricks *et al.* 2018, unpaginated), we are not aware of any information indicating that climate change is causing negative effects to the viability of gray wolf populations in the gray wolf entity, or that it is likely to do so in the future. Throughout their circumpolar distribution, gray wolves persist in a variety of ecosystems with temperatures ranging from −70 °F to 120 °F (−57 °C to 49 °C) (Mech and Boitani 2003, p. xv). Gray wolves are highly adaptable animals that inhabit a range of ecotypes and are efficient at exploiting food resources available to them. Due to this plasticity, we do not consider gray wolves to be vulnerable to climate change. For a full discussion of potential impacts of climate change on wolves, see the final delisting rule for the gray wolf in Wyoming (77 FR 55597–55598, September 10, 2012).

Cumulative Effects

When threats occur together, one may exacerbate the effects of another, causing effects not accounted for when threats are analyzed individually. Many of the threats to the gray wolf entity and gray wolf habitat discussed above are interrelated and could be synergistic, and thus may cumulatively affect the gray wolf entity beyond the extent of each individual threat. For example, a decline in available wild prey could cause wolves to prey on more livestock resulting in a potential increase in human-caused mortality. Although the types, magnitude, or extent of cumulative impacts are difficult to predict, we are not aware of any information demonstrating that cumulative effects are occurring at a level sufficient to negatively affect gray wolf populations within the gray wolf entity. We are not aware of any combination of factors that have not already been, or would not be, addressed through ongoing management measures that are expected to continue post-delisting and into the future, as described above. The best scientific and commercial data available indicate that the vast majority of these wolves occur as a widespread, large, and resilient metapopulation and that threat factors are not currently resulting, nor are they anticipated to cumulatively result, in reductions in gray wolf numbers or habitat.

Post-Delisting Management

State Management

Post-Delisting Management in Minnesota, Wisconsin, and Michigan

During the 2000 legislative session, the Minnesota Legislature passed wolf-management provisions addressing wolf

protection, taking of wolves, and directing Minnesota Department of Natural Resources to prepare a wolf-management plan. The MN DNR revised a 1999 draft wolf-management plan to reflect the legislative action of 2000, and completed the Minnesota Wolf Management Plan in early 2001 (MN DNR 2001, entire).

The Wisconsin Natural Resources Board approved the Wisconsin Wolf Management Plan in October 1999. In 2004 and 2005 the Wisconsin Wolf Science Advisory Committee and the Wisconsin Wolf Stakeholders group reviewed the 1999 Plan, and the Science Advisory Committee subsequently developed updates and recommended modifications to the 1999 Plan. The updates were completed and received final Natural Resources Board approval on November 28, 2006 (WI DNR 2006a, entire).

In late 1997, the Michigan Wolf Recovery and Management Plan was completed and received the necessary State approvals. That plan focused on recovery of a small wolf population, rather than long-term management of a large wolf population and the conflicts that result as a consequence of successful wolf restoration. To address changes associated with the 2007 Federal delisting of wolves in Michigan, the MI DNR revised its original wolf plan and created the 2008 Michigan Wolf Management Plan. The 2008 plan addressed the biological, social, and regulatory situation of wolf management in Michigan at that time. Since then, the context of wolf management in Michigan has continued to change, and the MI DNR again updated its wolf-management plan in 2015 (MI DNR 2015, entire). The 2015 updates reflect the biological and social issues associated with the increased population size and distribution of wolves in the State, although the four principle goals of the 2008 plan remain the same. The complete text of the Wisconsin, Michigan, and Minnesota wolf-management plans can be found on our website (see **FOR FURTHER INFORMATION CONTACT**).

The Minnesota Wolf Management Plan—The Minnesota Plan is based, in part, on the recommendations of a State wolf-management roundtable (MN DNR 2001, appendix V) and on a State wolf-management law enacted in 2000 (MN DNR 2001, appendix I). This law and the Minnesota Game and Fish Laws constitute the basis of the State's authority to manage wolves. The Plan's stated goal is ''to ensure the long-term survival of wolves in Minnesota while addressing wolf—human conflicts that inevitably result when wolves and people live in the same vicinity'' (MN DNR 2001, p. 2). It establishes a minimum goal of 1,600 wolves in the State. Key components of the plan are population monitoring and management, management of wolf depredation of domestic animals, management of wolf prey, enforcement of laws regulating take of wolves, public education, and increased staffing to accomplish these actions. Following Federal delisting, MN DNR's management of wolves would differ from their current management while wolves were listed as threatened under the Act. Most of these differences deal with two aspects of wolf management: The control of wolves that attack or threaten domestic animals and the implementation of a regulated wolf harvest season.

The Minnesota Plan divides the State into two wolf-management zones—Zones A and B (see map in MN DNR 2001, appendix 3). Zone A corresponds to Federal Wolf Management Zones 1 through 4 (approximately 30,000 mi^2 (77,700 km^2) in northeastern Minnesota) in the Service's Recovery Plan for the Eastern Timber Wolf, whereas Zone B constitutes Zone 5 in that recovery plan (the rest of the State (approximately 57,000 mi^2 (147,600 km^2) (MN DNR 2001, pp. 19–20 and appendix III; USFWS 1992, p. 72). Within Zone A, wolves would receive strong protection by the State, unless they were involved in attacks on domestic animals. The rules governing the take of wolves to protect domestic animals in Zone B would be less protective of wolves than in Zone A (see *Post-delisting Depredation Control in Minnesota* below).

The Minnesota Department of Natural Resources plans to allow wolf numbers and distribution to naturally expand, with no maximum population goal, and if any winter population estimate is below 1,600 wolves, it would take actions to ''assure recovery'' to 1,600 wolves (MN DNR 2001 p. 19). The MN DNR plans to continue to monitor wolves in Minnesota to determine whether such intervention is necessary. After the WGL DPS was delisted in 2011, the MN DNR increased the frequency of population surveys from every 5 years to annually in 2013. Although the agency is evaluating wolf-monitoring methods and optimal frequencies, short-term plans are to continue annual population-size estimates. In addition to these statewide population surveys, MN DNR annually reviews data on depredation-incident frequency and locations provided by Wildlife Services and winter track-survey indices (see Erb 2008) to help ascertain annual trends in wolf population or range (MN DNR 2001, pp. 18–19).

Minnesota (MN DNR 2001, pp. 21–24, 27–28) plans to reduce or control illegal mortality of wolves through education, increased enforcement of the State's wolf laws and regulations, discouraging new road access in some areas, and maintaining a depredation-control program that includes compensation for livestock losses. The MN DNR plans to use a variety of methods to encourage and support education of the public about the effects of wolves on livestock, wild ungulate populations, and human activities and the history and ecology of wolves in the State (MN DNR 2001, pp. 29–30). These are all measures that have been in effect for years in Minnesota, although increased enforcement of State laws against take of wolves would replace enforcement of the Act's take prohibitions. Financial compensation for livestock losses has increased to the full market value of the animal, replacing previous caps of $400 and $750 per animal (MN DNR 2001, p. 24). We do not expect the State's efforts to result in the reduction of illegal take of wolves from existing levels, but these measures would be crucial in ensuring that illegal mortality does not significantly increase after Federal delisting.

Under Minnesota law, the illegal killing of a wolf is a gross misdemeanor and is punishable by a maximum fine of $3,000 and imprisonment for up to 1 year. The restitution value of an illegally killed wolf is $2,000 (MN DNR 2001, p. 29). The MN DNR has designated three conservation officers who are stationed in the State's wolf range as the lead officers for implementing the wolf-management plan (MN DNR 2001, pp. 29, 32; Stark *in litt.* 2018).

Depredation Control in Minnesota—Although federally protected as a threatened species in Minnesota, wolves that have attacked domestic animals have been killed by designated government employees under the authority of a regulation (50 CFR 17.40(d)) under section 4(d) of the Act. However, no control of depredating wolves was allowed in Federal Wolf Management Zone 1, comprising about 4,500 mi^2 (7,200 km^2) in extreme northeastern Minnesota (USFWS 1992, p. 72). In Federal Wolf Management Zones 2 through 5, employees or agents of the Service (including USDA–APHIS–Wildlife Services) have taken wolves in response to depredations of domestic animals within one-half mile (0.8 km) of the depredation site. Young-of-the-year (young produced in one reproductive year) captured on or before

August 1 must be released. The regulations that allow for this take (50 CFR 17.40(d)(2)(i)(C)) do not specify a maximum duration for depredation control, but Wildlife Services personnel have followed internal guidelines under which they trap for no more than 10–15 days, except at sites with repeated or chronic depredation, where they may trap for up to 30 days (Paul 2004, pers. comm.).

During the period 1980–2017, the Federal Minnesota wolf-depredation-control program euthanized from 20 (in 1982) to 262 (in 2015) wolves annually. The annual averages and the percentage of the statewide wolf population for 5-year periods are presented in table 2.

TABLE 2—AVERAGE ANNUAL NUMBER OF WOLVES EUTHANIZED UNDER MINNESOTA WOLF DEPREDATION CONTROL AND THE PERCENTAGE OF THE STATEWIDE WOLF POPULATION FOR 5-YEAR PERIODS FROM 1980–2017

[Final time period represents 3, rather than 5 years) (Erb 2008; USDA–Wildlife Services 2010, p. 3; USDA–Wildlife Services 2011, p. 3; USDA–Wildlife Services 2017, p. 3]

	1980–1984	1985–1989	1990–1994	1995–1999	2000–2004	2005–2009	2010–2014	2015–2017
Average annual # wolves euthanized	30	49	115	152	128	157	194	195
Average annual % of wolf population	2.2	3.0	6.0	6.7	4.2	5.4	7.6	7.3

Since 1980, the lowest annual percentage of Minnesota wolves killed under this program was 1.5 percent in 1982; the highest percentage was 9.4 in both 1997 and 2015 (Paul 2004, pp. 2–7; Paul 2006, p. 1; USDA–Wildlife Services 2017, p. 3). The periods during which the depredation-control program was taking its highest percentages of wolves was during the 1990s and the 2010s. During the 1990s, when wolves euthanized for depredation control averaged around 6 percent of the wolf population, Minnesota wolf numbers continued to grow at an average annual rate of nearly 4 percent (Paul 2004, pp. 2–7). Wolf populations in the State fluctuated during the 2010s, when wolves euthanized for depredation control averaged around 7 percent of the wolf population. While wolf populations in the State did decline while wolves were delisted from 2011–2014, other management techniques in addition to depredation control were also implemented during that time (*e.g.,* regulated harvest), and that management was expected to reduce wolf numbers while maintaining a minimum population level. The level of wolf removal for depredation control that has occurred has not interfered with wolf recovery in Minnesota.

Under a Minnesota statute, the Minnesota Department of Agriculture (MDA) compensates livestock owners for full market value of livestock that wolves have killed or severely injured. An authorized investigator must confirm that wolves were responsible for the depredation. The Minnesota statute also requires MDA to periodically update its Best Management Practices to incorporate new practices that it finds would reduce wolf depredation (Minnesota Statutes 2018, Section 3.737, subdivision 5).

Post-delisting Depredation Control in Minnesota—If wolves in Minnesota are delisted, depredation control would be authorized under Minnesota State law and conducted in conformance with the Minnesota Wolf Management Plan (MN DNR 2001). The Minnesota Plan divides the State into Wolf Management Zones A and B, as discussed above. The statewide survey conducted during the winter of 2003–04 estimated that there were approximately 2,570 wolves in Zone A and 450 in Zone B (Erb *in litt.* 2005). As discussed in Recovery Criteria above, the Federal planning goal is 1,251–1,400 wolves for Zones 1–4 and there is no minimum population goal for Zone 5 (USFWS 1992, p. 28).

In Zone A, wolf depredation control would be limited to situations of (1) immediate threat and (2) following verified loss of domestic animals. In this zone, if the DNR verifies that a wolf destroyed any livestock, domestic animal, or pet, and if the owner requests wolf control be implemented, trained and certified predator controllers may take wolves (specific number to be determined on a case-by-case basis) within a 1-mile (1.6-km) radius of the depredation site (depredation-control area) for up to 60 days. In contrast, in Zone B, predator controllers may take wolves (specific number to be determined on a case-by-case basis) for up to 214 days after MN DNR opens a depredation-control area, depending on the time of year. Under State law, the DNR may open a control area in Zone B anytime within 5 years of a verified depredation loss upon request of the landowner, thereby providing more of a preventative approach than is allowed in Zone A, in order to head off repeat depredation incidents (MN DNR 2001, p. 22).

Depredation control would be allowed throughout Zone A, which includes an area (Federal Wolf Management Zone 1) where such control has not been permitted under the Act's protection. Depredation by wolves in Zone 1, however, has been limited to 2 to 4 reported incidents per year, mostly of wolves killing dogs. In 2009, there was one probable and one verified depredation of a dog near Ely, Minnesota, and in 2010 Wildlife Services confirmed three dogs killed by wolves in Zone 1 (USDA–Wildlife Services 2009, p. 3; USDA–Wildlife Services 2010, p. 3). There are few livestock in Zone 1; therefore, the number of verified future depredation incidents in that Zone is expected to be low, resulting in a correspondingly low number of depredating wolves being killed there after delisting.

State law and the Minnesota Plan would also allow for private wolf depredation control throughout the State. Persons could shoot or destroy a wolf that poses ''an immediate threat'' to their livestock, guard animals, or domestic animals on lands that they own, lease, or occupy. Immediate threat is defined as ''in the act of stalking, attacking, or killing.'' This does not include trapping because traps cannot be placed in a manner such that they trap only wolves in the act of stalking, attacking, or killing. Owners of domestic pets could also kill wolves posing an immediate threat to pets under their supervision on lands that they do not own or lease, although such actions are subject to local ordinances, trespass law, and other applicable restrictions. To protect their domestic animals in Zone B, individuals do not have to wait for an immediate threat or a depredation incident in order to take wolves. At any time in Zone B, persons who own, lease, or manage lands may shoot wolves on those lands to protect livestock, domestic animals, or pets. They may

also employ a predator controller to trap a wolf on their land or within 1 mile (1.6 km) of their land (with permission of the landowner) to protect their livestock, domestic animals, or pets (MN DNR 2001, pp. 23–24). The MN DNR will investigate any private taking of wolves in Zone A (MN DNR 2001, p. 23). The Minnesota Plan would also allow persons to harass wolves anywhere in the State within 500 yards of ''people, buildings, dogs, livestock, or other domestic pets or animals.'' Harassment may not include physical injury to a wolf.

As discussed above, landowners or lessees would be allowed to respond to situations of immediate threat by shooting wolves in the act of stalking, attacking, or killing livestock or other domestic animals in Zone A. We conclude that this action is not likely to result in the killing of many additional wolves, as opportunities to shoot wolves ''in the act'' would likely be few and difficult to successfully accomplish, a conclusion shared by a highly experienced wolf-depredation agent (Paul *in litt.* 2006, p. 5). It is also possible that illegal killing of wolves in Minnesota will decrease, because the expanded options for legal control of problem wolves may lead to an increase in public tolerance for wolves (Paul *in litt.* 2006, p. 5).

State law and the Minnesota Plan would provide broad authority to landowners and land managers to shoot wolves at any time to protect their livestock, pets, or other domestic animals on land owned, leased, or managed by the individual in Zone B (as described above). Such takings can occur in the absence of wolf attacks on the domestic animals. Thus, the estimated 450 wolves in Zone B could be subject to substantial reduction in numbers. At the extreme, wolves could be eliminated from Zone B, but this is highly unlikely—the Minnesota Plan states that ''Although depredation procedures will likely result in a larger number of wolves killed, as compared to previous ESA management, they will not result in the elimination of wolves from Zone B.'' (MN DNR 2001, pp. 22–23). While wolves were under State management in 2007–08 and in 2011–14, landowners in Zone B shot six and eight wolves under this authority, respectively. Fourteen additional wolves were trapped and euthanized in Zone B by State-certified predator controllers, 1 in 2009 and 13 in 2013 (Stark *in litt.* 2009; Stark *in litt.* 2018).

The limitation of this broad take authority to Zone B is fully consistent with the advice in the Recovery Plan for the Eastern Timber Wolf that wolves should be restored to the rest of Minnesota but not to Zone B (Federal Zone 5) because that area ''is not suitable for wolves'' (USFWS 1992, p. 20). The Recovery Plan for the Eastern Timber Wolf envisioned that the Minnesota numerical planning goal would be achieved solely in Zone A (Federal Zones 1–4) (USFWS 1992, p. 28), and that has occurred. Wolves outside of Zone A are not necessary to the establishment and long-term viability of a self-sustaining wolf population in the State, and, therefore, there is no need to establish or maintain a wolf population in Zone B. Accordingly, there is no need to maintain significant protection for wolves in Zone B in order to maintain a Minnesota wolf population that continues to satisfy the Federal recovery criteria after Federal delisting.

This expansion of depredation-control activities would not threaten the continued survival of wolves in the State or the long-term viability of the wolf population in Zone A, the large part of wolf range in Minnesota. Significant changes in wolf depredation control under State management will primarily be restricted to Zone B, which is outside of the area necessary for wolf recovery (USFWS 1992, pp. 20, 28). Furthermore, wolves may still persist in Zone B despite the likely increased take there. The Eastern Timber Wolf Recovery Team concluded that the changes in wolf management in the State's Zone A would be ''minor'' and would not likely result in ''significant change in overall wolf numbers in Zone A.'' They found that, despite an expansion of the individual depredation-control areas and an extension of the control period to 60 days, depredation control would remain ''very localized'' in Zone A. The requirement that such depredation-control activities be conducted only in response to verified wolf depredation in Zone A played a key role in the team's evaluation (Peterson *in litt.* 2001). While wolves were under State management in 2007 and 2008, the number of wolves killed for depredation control (133 wolves in 2007 and 143 wolves in 2008) remained consistent with those killed under the special regulation under section 4(d) of the Act while wolves were federally listed (105, in 2004; 134, in 2005; and 122, in 2006). The number of wolves killed for depredation control while wolves were under State management for the second time (2011–2014) was slightly higher (203 wolves in 2011, 262 in 2012, 114 in 2013, and 197 in 2014) than during 2007 and 2008, but was still consistent with those killed under section 4(d) in the surrounding years (192 wolves in 2010 and 213 in 2015).

Minnesota would continue to monitor wolf populations throughout the State and would also monitor all depredation-control activities in Zone A (MN DNR 2001, p. 18). These and other activities contained in their plan would be essential in meeting their population goal of a minimum statewide winter population of 1,600 wolves, well above the planning goal of 1,251 to 1,400 wolves that the Revised Recovery Plan identifies as sufficient to ensure the wolf's continued survival in Minnesota (USFWS 1992, p. 28).

Post-delisting Regulated Harvest in Minnesota—Minnesota Department of Natural Resources will consider wolf population-management measures, including public hunting and trapping seasons and other methods, if wolves are federally delisted. In 2011, the Minnesota Legislature authorized the MN DNR to implement a wolf season following the Federal delisting and classified wolves as small game in State statute (Minnesota Statutes 2018 97B.645 Subd. 9). Following Federal delisting, the 2012 Legislature established wolf hunting and trapping licenses, clarified the authority for the MN DNR to implement a wolf season, and required the start of the season to be no later than the start of firearms deer season each year. Three regulated harvest seasons (in 2012, 2013, and 2014) were subsequently implemented in the State while wolves were federally delisted. The harvest was divided into three segments: An early hunting season that coincided with the firearms deer season, a late hunting season, and a concurrent late trapping season. In 2012, the MN DNR established a total target harvest of 400 wolves (the close of the harvest season is to be initiated when that target is met) (Stark and Erb 2013, pp. 1–2). During that first regulated season, 413 wolves were harvested. Based on the results of the 2012 harvest season, the MN DNR revised the target to 220 wolves for 2013; that year 238 wolves were harvested. The 2014 target harvest was 250 wolves and 272 were harvested.

The Minnesota management plan requires that population-management measures be implemented in such a way to maintain a statewide late-winter wolf population of at least 1,600 animals (MN DNR 2001, pp. 19–20), well above the planning goal of 1,251 to 1,400 wolves for the State in the Revised Recovery Plan (USFWS 1992, p. 28); therefore, implementing such management measures under that

requirement would ensure the wolf's continued survival in Minnesota.

The Wisconsin Wolf Management Plan—Both the Wisconsin and Michigan Wolf Management Plans are designed to manage and ensure the existence of wolf populations in the States as if they are isolated populations and are not dependent upon immigration of wolves from an adjacent State or Canada, while still maintaining connections to those other populations. We support this approach as it provides strong assurances that the wolf in both States will remain a viable component of the wolves in the Great Lakes area and the larger gray wolf entity.

The Wisconsin Plan allows for differing levels of protection and management within four separate management zones (see WI DNR 2006a, figure 8). The Northern Forest Zone (Zone 1) and the Central Forest Zone (Zone 2) now contain most of the State's wolf population, with approximately 6 percent of the Wisconsin wolves in Zones 3 and 4 (Wydeven and Wiedenhoeft 2009, table 1). Zones 1 and 2 contain all the larger unfragmented areas of suitable habitat, so we anticipate that most of the State's wolf packs will continue to inhabit those parts of Wisconsin. At the time the 1999 Wisconsin Plan was completed, it recommended immediate reclassification from State-endangered to State-threatened status, because Wisconsin's wolf population had already exceeded its reclassification criterion of 80 wolves for 3 years; thus, State reclassification occurred that same year.

The Wisconsin Plan contains a minimum population goal of 350 wolves outside of Native American reservations, and specifies that the species should be delisted by the State once the population reaches 250 animals outside of reservations. The species was proposed for State delisting in late 2003, and the State delisting process was completed in 2004. Upon State delisting, the species was classified as a ''protected nongame species,'' a designation that continues State prohibitions on sport hunting and trapping of the species (Wydeven and Jurewicz 2005, p. 1; WI DNR 2006b, p. 71). The Wisconsin Plan includes criteria for when State re-listing to threatened (a decline to fewer than 250 wolves for 3 years) or endangered status (a decline to fewer than 80 wolves for 1 year) should be considered. The Wisconsin Plan will be reviewed annually by the Wisconsin Wolf Advisory Committee and will be reviewed by the public every 5 years. Recently the WI DNR began work on updating the State's wolf-management plan, which may include increasing the State management goal (Wydeven and Wiedenhoeft 2009, p. 3).

The Wisconsin Plan was updated during 2004–06 to reflect current wolf numbers, additional knowledge, and issues that have arisen since its 1999 completion. This update is in the form of text changes, revisions to two appendices, and the addition of a new appendix to the 1999 plan, rather than a major revision to the plan. Several components of the plan that are key to our delisting evaluation are unchanged. The State wolf-management goal of 350 animals and the boundaries of the four wolf-management zones remain the same as in the 1999 Plan. The updated 2006 Plan continues access management on public lands and the protection of active den sites. Protection of pack-rendezvous sites, however, is no longer considered to be needed in areas where wolves have become well established, due to the transient nature of these sites and the larger wolf population. The updated Plan states that rendezvous sites may need protection in areas where wolf colonization is still under way or where pup survival is extremely poor, such as in northeastern Wisconsin (WI DNR 2006a, p. 17). The guidelines for the wolf depredation-control program (see *Post-delisting Depredation Control in Wisconsin*) did not undergo significant alteration during the update process. The only substantive change to depredation-control practices is to expand the area of depredation-control trapping in Zones 1 and 2 to 1 mi (1.6 km) outward from the depredation site, replacing the previous 0.5-mi (0.8-km) radius trapping zone (WI DNR 2006a, pp. 3–4).

An important component of the Wisconsin Plan is the annual monitoring of wolf populations by radio collars and winter track surveys in order to provide comparable annual data to assess population size and growth for at least 5 years after Federal delisting. This monitoring would include health monitoring of captured wolves and necropsies of dead wolves that are found. Wolf scat would be collected and analyzed to monitor for canine viruses and parasites. Health monitoring would be part of the capture protocol for all studies that involve the live-capture of Wisconsin wolves (WI DNR 2006a, p. 14). The 2006 update to the Wisconsin Wolf Management Plan did not change the WI DNR's commitment to annual wolf population monitoring, and ensures accurate and comparable data (WI DNR 1999, pp. 19–20).

Cooperative habitat management would be promoted with public and private landowners to maintain existing road densities in Zones 1 and 2, protect wolf dispersal corridors, and manage forests for deer and beaver (WI DNR 1999, pp. 4, 22–23; 2006a, pp. 15–17). Furthermore, in Zone 1, a year-round prohibition on tree harvest within 330 feet (100 m) of den sites and seasonal restrictions to reduce disturbance within one-half mile (0.8 km) of dens would be WI DNR policy on public lands and would be encouraged on private lands (WI DNR 1999, p. 23; 2006a, p. 17).

The 1999 Wisconsin Plan contains, and the 2006 update retains, other components that would provide protection to assist in maintenance of a viable wolf population in the State following delisting: (1) Continue the protection of the species as a ''protected wild animal'' with penalties similar to those for unlawfully killing large game species (fines of $1,000–$2,000, loss of hunting privileges for 3–5 years, and a possible 6-month jail sentence), (2) maintain closure zones where coyotes cannot be shot during deer-hunting season in Zone 1, (3) legally protect wolf dens under the Wisconsin Administrative Code, (4) require State permits to possess a wolf or wolf-dog hybrid, and (5) establish a restitution value to be levied in addition to fines and other penalties for wolves that are illegally killed (WI DNR 1999, pp. 21, 27–28, 30–31; 2006a, pp. 3–4).

The 2006 update of the Wisconsin Plan continues to emphasize the need for public education efforts that focus on living with a recovered wolf population, ways to manage wolves and wolf–human conflicts, and the ecosystem role of wolves. The Plan continues the State reimbursement for depredation losses (including dogs and missing calves), citizen stakeholder involvement in the wolf-management program, and coordination with the Tribes in wolf management and investigation of illegal killings (WI DNR 1999, pp. 24, 28–29; 2006a, pp. 22–23).

Depredation Control in Wisconsin—Lethal depredation control has not been authorized in Wisconsin (due to the listed status of wolves there as endangered) except for several years when such control was authorized under a permit from the USFWS or while wolves were delisted under previous actions. The rapidly expanding Wisconsin wolf population has resulted in an increased need for depredation control, however. From 1979 through 1989, there were only five cases (an average of 0.4 per year) of verified wolf depredations in Wisconsin, but the number of incidents has steadily increased over the subsequent decades.

During the 1990s there were an average of approximately 4 incidents per year, increasing to an average of approximately 38 per year during the 2000s and to an average of approximately 69 per year since 2010 (WI DNR data files and summary of wolf survey and depredation reports).

A significant portion of depredation incidents in Wisconsin involve attacks on dogs. In most cases, these have been hunting dogs that were being used for, or being trained for, hunting bears, bobcats, coyotes, and snowshoe hare (Ruid *et al.* 2009, pp. 285–286). It is believed that the dogs entered the territory of a wolf pack and may have been close to a den, rendezvous site, or feeding location, thus triggering an attack by wolves defending their territory or pups. The frequency of attacks on hunting dogs has increased as the State's wolf population has grown. Of the 206 dogs killed by wolves during the 25 years from 1986–2010, more than 80 percent occurred during the period from 2001–10, with an average of 17 dogs killed annually during that 10-year period (WI DNR files). Data on depredations from 2013 to 2017 show a continued increase in wolf attacks on dogs, with an average of 23 dogs killed annually (with a high of 41 dogs in 2016). While the WI DNR compensates dog owners for mortalities and injuries to their dogs, the DNR takes no action against the depredating pack unless the attack was on a dog that was leashed, confined, or under the owner's control on the owner's land. Instead, the DNR issues press releases to warn bear hunters and bear-dog trainers of the areas where wolf packs have been attacking bear dogs (WI DNR 2008, p. 5) and provides maps and advice to hunters on the WI DNR website (see *https://dnr.wi.gov/topic/Wildlife Habitat/wolf/dogdeps.html*). In 2010, wolf attacks on dogs occurred 14 times near homes, which was the highest level seen of this type of depredation (Wydeven *et al.* 2011, p. 3).

During the first periods that wolves were federally delisted in Wisconsin (from March 2007 through September 2008 and from April through early July 2009), 92 wolves were killed for depredation control in the State, including 8 legally shot by private landowners (Wydeven and Wiedenhoeft 2008, p. 8; Wydeven *et al.* 2009b, p. 6; Wydeven *et al.* 2010, p. 13). When wolves were again delisted from January 2012 through December 2014, depredation control resulted in 164 wolves being killed, including 38 legally shot by private landowners (McFarland and Wiedenhoeft 2013, p. 9; Wiedenhoeft *et al,* 2014, p. 10; Wiedenhoeft *et al.* 2015, p. 10).

Post-delisting Depredation Control in Wisconsin—Following Federal delisting, wolf depredation control in Wisconsin would be carried out according to the 2006 Updated Wisconsin Wolf Management Plan (WI DNR 2006a, pp. 19–23), Guidelines for Conducting Depredation Control on Wolves in Wisconsin Following Federal Delisting (WI DNR 2008), and any Tribal wolf-management plans or guidelines that may be developed for reservations in occupied wolf range. The 2006 updates did not significantly change the 1999 State Plan, and the State wolf management goal of 350 wolves outside of Indian reservations (WI DNR 2006a, p. 3) is unchanged. Verification of wolf depredation incidents would continue to be conducted by USDA–APHIS–Wildlife Services, working under a cooperative agreement with WI DNR, or at the request of a Tribe, depending on the location of the suspected depredation incident. If determined to be a confirmed or probable depredation by a wolf or wolves, one or more of several options would be implemented to address the depredation problem. These options include technical assistance, loss compensation to landowners, translocating or euthanizing problem wolves, and private landowner control of problem wolves in some circumstances (WI DNR 2006a, pp. 3–4, 20–22).

Technical assistance, consisting of advice or recommendations to prevent or reduce further wolf conflicts, would be provided. This may also include providing the landowner with various forms of noninjurious behavior-modification materials, such as flashing lights, noise makers, temporary fencing, and fladry (a string of flags used to contain or exclude wild animals). Monetary compensation is also provided for all verified and probable losses of domestic animals and for a portion of documented missing calves (WI DNR 2006a, pp. 22–23). The compensation is made at full market value of the animal (up to a limit of $2,500 for dogs) and can include veterinarian fees for the treatment of injured animals (WI DNR 2006c 12.54). Current Wisconsin law requires the continuation of the compensation payment for wolf depredation regardless of Federal listing or delisting of the species (WI DNR 2006c 12.50). In recent years, annual depredation compensation payments have ranged from $91,000 (2009) to $256,000 (2017). From 1985 through April, 2018, the WI DNR had spent over $2,378,000 on reimbursement for damage caused by wolves in the State, with 60 percent of that total spent over the last 10 years (since 2009) (*https://dnr.wi.gov/topic/wildlifehabitat/wolf/documents/WolfDamagePayments.pdf*).

For depredation incidents in Wisconsin Zones 1 through 3, where all wolf packs currently reside, wolves may be trapped by USDA–Wildlife Services or Wisconsin Department of Natural Resources personnel and, if feasible, translocated and released at a point distant from the depredation site. If wolves are captured adjacent to an Indian reservation or a large block of public land, the animals may be translocated locally to that area. Long-distance translocating of depredating wolves has become increasingly difficult in Wisconsin and is likely to be used infrequently in the future as long as the off-reservation wolf population is above 350 animals. In most wolf-depredation cases where technical assistance and nonlethal methods of behavior modification are judged to be ineffective, wolves would be shot or trapped and euthanized by Wildlife Services or DNR personnel. Trapping and euthanizing would be conducted within a 1-mi (1.6-km) radius of the depredation in Zones 1 and 2, and within a 5-mi (8-km) radius in Zone 3. There is no distance limitation for depredation-control trapping in Zone 4, and all wolves trapped in Zone 4 would be euthanized, rather than translocated (WI DNR 2006a, pp. 22–23).

Full authority to conduct lethal depredation control has not been allowed in Wisconsin (due to the listed status of the wolf as an endangered species) except for short periods of time. So we have evaluated post-delisting lethal depredation control based upon verified depredation incidents over the last decade and the impacts of the implementation of similar lethal control of depredating wolves under 50 CFR 17.40(d) for Minnesota, § 17.40(o) for Wisconsin and Michigan, and section 10(a)(1)(A) of the Act for Wisconsin and Michigan. Under those authorities, WI DNR and Wildlife Services trapped and euthanized 17 wolves in 2003; 24 in 2004; 29 in 2005; 18 in 2006; 37 in 2007; 39 in 2008; 9 in 2009; and 16 in 2010 (WI DNR 2006a, p. 32; Wydeven *et al.* 2009a, pp. 6–7; Wydeven *et al.* 2010, p. 15; Wydeven *et al.* 2011, p. 3).

Although these lethal control authorities applied to Wisconsin and Michigan DNRs for only a portion of 2003 (April through December) and 2005 (all of January for both States; April 1 and April 19, for Wisconsin and Michigan respectively, through September 13), they covered nearly all of the verified wolf depredations during

2003–05, and thus provide a reasonable measure of annual lethal depredation control. For 2003, 2004, and 2005, this represents 5.1 percent, 6.4 percent, 7.4 percent (including the several possible wolf-dog hybrids), respectively, of the late-winter population of Wisconsin wolves during the previous winter. This level of lethal depredation control was followed by a wolf population increase of 11 percent from 2003 to 2004, 17 percent from 2004 to 2005, and 7 percent from 2005 to 2006 (Wydeven and Jurewicz 2005, p. 5; Wydeven *et al.* 2006, p. 10). Limited lethal-control authority was granted to WI DNR for 3.5 months in 2006 by a section 10 permit, resulting in removal of 18 wolves (3.9 percent of the winter wolf population) (Wydeven *et al.* 2007, p. 7).

Lethal depredation control was again authorized in the State while wolves were delisted in 2007 (9.5 months) and 2008 (9 months). During those times, 40 and 43 wolves, respectively, were killed for depredation control (by Wildlife Services or by legal landowner action), representing 7 and 8 percent of the late-winter population of Wisconsin wolves during the previous year. This level of lethal depredation control was followed by a wolf population increase of 0.5 percent from 2007 to 2008, and 12 percent from 2008 to 2009 (Wydeven and Wiedenhoeft 2008, pp. 19–22; Wydeven *et al.* 2009a, p. 6). Authority for lethal control on depredating wolves occurred for only 2 months in 2009. During that time, eight wolves were euthanized for depredation control by USDA–Wildlife Services, and one wolf was shot by a landowner; additionally, later in 2009 after re-listing, a wolf was captured and euthanized by USDA–Wildlife Services for human safety concerns (Wydeven *et al.* 2010, p. 15). Thus in 2009, 10 wolves, or 2 percent of the winter wolf population, was removed in control activities.

In 2010, authority for lethal control of wolves depredating livestock was not available in Wisconsin, but 16 wolves or 2 percent of the winter population were removed for human-safety concerns (Wydeven *et al.* 2011, p. 3). The Wisconsin wolf population in winter 2010–11 grew to 687 wolves, an increase of 8 percent from the wolf population in winter 2009–10 (Wydeven *et al.* 2010, pp. 12–13). When wolves were again delisted from January 2012 through December 2014, a total of 164 wolves were killed under authorized lethal depredation control (McFarland and Wiedenhoeft 2013, p. 9; Wiedenhoeft *et al.* 2014, p. 10; Wiedenhoeft *et al.* 2015, p. 10). It is more difficult to evaluate the effects attributed specifically to depredation control over that time, as the State also implemented a regulated public harvest those years; however, information from previous years where depredation control was the primary change in management provides strong evidence that this form and magnitude of depredation control would not adversely affect the viability of the Wisconsin wolf population. The locations of depredation incidents provide additional evidence that lethal control would not have an adverse impact on the State's wolf population. Most livestock depredations are caused by packs near the northern forest–farm land interface. Few depredations occur in core wolf range and in large blocks of public land. Thus, lethal depredation-control actions would not affect most of the Wisconsin wolf population (WI DNR 2006a, p. 30).

One substantive change to lethal control that would result from Federal delisting is the ability of a small number of private landowners, whose farms have a history of recurring wolf depredation, to obtain limited-duration permits from Wisconsin Department of Natural Resources to kill a limited number of depredating wolves on land they own or lease, based on the size of the pack causing the local depredations (WI DNR 2008, p. 8). Such permits would be issued to: (1) Landowners with verified wolf depredations on their property within the last 2 years; (2) landowners within 1 mile (1.6 km) of properties with verified wolf depredations during the calendar year; (3) landowners with vulnerable livestock within WI DNR-designated proactive control areas; (4) landowners with human safety concerns on their property, and (5) landowners with verified harassment of livestock on their property (WI DNR 2008, p. 8). Limits on the number of wolves to control would be based on the estimated number of wolves in the pack causing depredation problems.

During the 19 months in 2007 and 2008 when wolves were federally delisted, the DNR issued 67 such permits, resulting in 2 wolves being killed. Some landowners received permits more than once, and permits were issued for up to 90 days at a time and restricted to specific calendar years. In addition, landowners and lessees of land statewide would be allowed without obtaining a permit to kill a wolf ''in the act of killing, wounding, or biting a domestic animal.'' The incident must be reported to a conservation warden within 24 hours, and the landowners are required to turn any dead wolves over to the WI DNR (WI DNR 2006a, pp. 22–23; WI DNR 2008, p. 6). During that same 19-month time period, landowners killed a total of five wolves under that authority. One wolf was shot in the act of attack on domestic animals during the 2 months when wolves were delisted in 2009; then 38 wolves were legally shot by landowners during the 35 months wolves were delisted from 2012–2014. The death of these 46 additional wolves—which accounted for less than 3 percent of the State's wolves in any year—did not affect the viability of the population.

Another potential substantive change after delisting would be proactive trapping or ''intensive control'' of wolves in sub-zones of the larger wolf-management zones (WI DNR 2006a, pp. 22–23). Triggering actions and type of controls planned for these ''proactive control areas'' are listed in the WI DNR depredation-control guidelines (WI DNR 2008, pp. 7–9). Controls on these actions would be considered on a case-by-case basis to address specific problems, and would be carried out only in areas that lack suitable habitat, have extensive agricultural lands with little forest interspersion, in urban or suburban settings, and only when the State wolf population is well above the management goal of 350 wolves outside Indian reservations in late-winter surveys. The use of intensive population management in small areas would be adapted as experience is gained with implementing and evaluating localized control actions (Wydeven 2006, pers. comm.). We are confident that the number of wolves killed by these actions would not affect the long-term viability of the Wisconsin wolf population, because generally less than 15 percent of packs cause depredations that would initiate such controls, and ''proactive'' controls would be carried out only if the State's late-winter wolf population exceeds 350 animals outside Indian reservations.

The State's current guidelines for conducting depredation-control actions say that no control trapping would be conducted on wolves that kill ''dogs that are free roaming, roaming at large, hunting, or training on public lands, and all other lands except land owned or leased by the dog owner'' (WI DNR 2008, p. 5). Controls would be applied on wolves depredating pet dogs attacked near homes and wolves attacking livestock. Because of these State-imposed limitations, we conclude that lethal control of wolves depredating on hunting dogs would be rare and, therefore, would not be a significant additional source of mortality in Wisconsin. Lethal control of wolves that attack captive deer is included in the WI DNR depredation-control program,

because farm-raised deer are considered to be livestock under Wisconsin law (WI DNR 2008, pp. 5–6; 2006c, 12.52). However, Wisconsin regulations for deer farm fencing have been strengthened, and it is unlikely that more than an occasional wolf would need to be killed to end wolf depredations inside deer farms in the foreseeable future. Claims for wolf depredation compensation are rejected if the claimant is not in compliance with regulations regarding farm-raised-deer fencing or livestock-carcass disposal (Wisconsin Statutes 90.20 & 90.21, WI DNR 2006c 12.54).

Data from verified wolf depredations in recent years indicate that depredation on livestock is likely to increase as long as the Wisconsin wolf population increases in numbers and range. Wolf packs in more marginal habitat with high acreage of pasture land are more likely to become depredators (Treves *et al.* 2004, pp. 121–122). Most large areas of forest land and public lands are included in Wisconsin Wolf Management Zones 1 and 2, and they have already been colonized by wolves. Therefore, new areas likely to be colonized by wolves in the future would be in Zones 3 and 4, where they would be exposed to much higher densities of farms, livestock, and residences. During 2008, of farms experiencing wolf depredation, 25 percent (8 of 32) were in Zone 3, yet only 4 percent of the State wolf population occurs in this zone (Wydeven *et al.* 2009a, p. 23). Further expansion of wolves into Zone 3 would likely lead to an increase in depredation incidents and an increase in lethal control actions against Zone 3 wolves. However, these Zone 3 mortalities would have no impact on wolf population viability in Wisconsin because of the much larger wolf populations in Zones 1 and 2.

We anticipate that under the management laid out in the Wisconsin Wolf Management Plan the wolf population in Zones 1 and 2 would continue to greatly exceed the recovery goal in the Recovery Plan for the Eastern Timber Wolf of 200 late-winter wolves for an isolated population and 100 wolves for a subpopulation connected to the larger Minnesota population, regardless of the extent of wolf mortality from all causes in Zones 3 and 4. Ongoing annual wolf population monitoring by WI DNR would provide timely and accurate data to evaluate the effects of wolf management under the Wisconsin Plan.

Post-delisting Regulated Harvest in Wisconsin—A regulated public harvest of wolves is acknowledged in the Wisconsin Wolf Management Plan and its updates as a potential management technique (WI DNR 1999, appendix D; 2006c, p. 23). Wisconsin Act 169 was enacted in April 2012, following Federal delisting of wolves earlier that year. The law reclassified wolves in Wisconsin as a game species and directed the WI DNR to establish a harvest season in 2012. The harvest season was set from October 15–February 28 with zones closing as individual quotas are met. The WI DNR holds the authority to determine harvest zones and set harvest quotas.

Harvest quotas for the first season in 2012–13 were designed to begin reducing the population toward the established objective, and the harvest zones were designed to focus harvest in areas of highest human conflict with lower harvest rates in areas of primary wolf habitat. State-licensed hunters and trappers were not allowed permits within the reservation boundaries of the Bad River, Red Cliff, Lac Courte Oreilles, Lac Du Flambeau, Menominee, and Stockbridge-Munsee reservations, and separate quotas were set for these ceded territories. The Wisconsin Natural Resources Board established a total quota of 201 wolves (broken into a State-licensed quota of 116 wolves and a tribal quota of 85 wolves). A total of 117 wolves were harvested during that first season, all under the State licenses (Tribes did not authorize tribal members to harvest wolves within reservation boundaries). In 2013–14, the total quota was 275 wolves; a State-licensed quota of 251, and a tribal quota of 24. That year, 257 wolves were harvested. The 2014–15 wolf quota was reduced to 156 (a 57-percent reduction from the 2013–14 wolf quota), and 154 wolves were harvested that season (a 60-percent decrease from the 2013–14 harvest.

Regardless of the methods used to manage wolves in the State, the Wisconsin Department of Natural Resources is committed to maintaining a wolf population at 350 wolves outside of Indian reservations, which translates to a statewide population of 361 to 385 wolves in late winter. No harvest would be allowed if the wolf population fell below this goal (WI DNR 1999, pp. 15, 16). Also, the fact that the Wisconsin Plan calls for State re-listing of the wolf as a threatened species if the population falls to fewer than 250 for 3 years provides a strong assurance that any public harvest is not likely to threaten the persistence of the population (WI DNR 1999, pp. 15–17). Based on wolf population data, the current Wisconsin Plan and the 2006 updates, we conclude that any public harvest plan would continue to maintain the State wolf population well above the recovery goal of 200 wolves in late winter.

The Michigan Wolf Management Plan—The 2015 updated Michigan Plan describes the wolf recovery goals and management actions needed to maintain a viable wolf population in the Upper Peninsula of Michigan, while facilitating wolf-related benefits and minimizing conflicts. The updated Michigan Plan contains new scientific information related to wolf management, updated information on the legal status of wolves, clarifications related to management authorities and decisionmaking, and updated strategic goals, objectives, and management actions informed by internal evaluation and responses and comments received from stakeholders. The updated plan retains the four principal goals of the 2008 plan, which are to ''(1) maintain a viable Michigan wolf population above a level that would warrant its classification as threatened or endangered (more than 200 wolves); (2) facilitate wolf-related benefits; (3) minimize wolf-related conflicts; and (4) conduct science-based wolf management with socially acceptable methods'' (MI DNR 2015, p. 16). The Michigan Plan details wolf-management actions, including public education and outreach activities, annual wolf population and health monitoring, research, depredation control, ensuring adequate legal protection for wolves, and prey and habitat management. It does not address the potential need for wolf recovery or management in the Lower Peninsula, nor wolf management within Isle Royale National Park (where the wolf population is fully protected by the National Park Service).

As with the Wisconsin Plan, the Michigan Department of Natural Resources has chosen to manage the State's wolves as though they are an isolated population that receives no genetic or demographic benefits from immigrating wolves, even though their population will continue to be connected with populations in Minnesota, Wisconsin, and Canada. The Michigan wolf population must exceed 200 wolves in order to achieve the Plan's first goal of maintaining a viable wolf population in the Upper Peninsula. This number is consistent with the Federal Recovery Plan for the Eastern Timber Wolf's definition of a viable, isolated wolf population (USFWS 1992, p. 25). The Michigan Plan, however, clearly states that 200 wolves is not the target population size, and that a larger population may be necessary to meet the other goals of the Plan. Therefore, the State would maintain a wolf population that would ''provide all of the ecological and social benefits valued

by the public'' while ''minimizing and resolving conflicts where they occur'' (MI DNR 2015, p. 17). We strongly support this approach, as it provides assurance that a viable wolf population would remain in the Upper Peninsula regardless of the future fate of wolves in Wisconsin or Ontario.

The Michigan Plan identifies wolf population monitoring as a priority activity, and specifically states that the Michigan Department of Natural Resources would monitor wolf abundance twice a year for at least 5 years post-delisting (MI DNR 2015, p. 26). This includes monitoring to assess wolf presence in the northern Lower Peninsula. From 1989 through 2006, the MI DNR attempted to count wolves throughout the entire Upper Peninsula. As the wolf population increased, this method became more difficult. In the winter of 2006–07, the MI DNR implemented a new sampling approach based on an analysis by Potvin *et al.* (2005, p. 1668) to increase the efficiency of the State survey. The new approach is based on a geographically based stratified random sample and produces an unbiased, regional estimate of wolf abundance. The Upper Peninsula was stratified into three sampling areas, and within each stratum the DNR intensively surveys roughly 40 to 50 percent of the wolf habitat area annually. Computer simulations have shown that such a geographically stratified monitoring program would produce unbiased and precise estimates of the total wolf population, which can be statistically compared to estimates derived from the previous method to detect significant changes in the Upper Peninsula wolf population (Beyer *in litt.* 2006, see attachment by Drummer; Lederle *in litt.* 2006; Roell *et al.* 2009, p. 3).

Another component of wolf population monitoring is monitoring wolf health. The MI DNR would continue to monitor the impact of parasites and disease on the viability of wolf populations in the State through necropsies of dead wolves and analyzing biological samples from captured live wolves. Prior to 2004, MI DNR vaccinated all captured wolves for canine distemper and parvovirus and treated them for mange. These inoculations were discontinued to provide more natural biotic conditions and to provide biologists with an unbiased estimate of disease-caused mortality rates in the population (Roell *in litt.* 2005). Since diseases and parasites are not currently a significant threat to the Michigan wolf population, the MI DNR is continuing the practice of not actively managing disease. If monitoring indicates that diseases or parasites may pose a threat to the wolf population, the MI DNR would again consider more active management similar to that conducted prior to 2004 (MI DNR 2015, p. 35).

The Michigan Plan includes maintaining habitat and prey necessary to sustain a viable wolf population in the State as a management component. This includes maintaining prey populations required for a viable wolf population while providing for sustainable human uses, maintaining habitat linkages to allow for wolf dispersal, and minimizing disturbance at known, active wolf dens (MI DNR 2015, pp. 32–34).

To minimize illegal take, the Michigan Plan calls for enacting and enforcing regulations to ensure adequate legal protection for wolves in the State. Under State regulations, wolves could be classified as a threatened, endangered, game, or protected animal, all of which prohibit killing (or harming) the species except under a permit, license, or specific conditions. Michigan removed gray wolves from the State's threatened and endangered species list in 2009 and classified the species as a game animal in 2015. Game-animal status allows but does not require the establishment of a regulated harvest season. The Michigan Plan states that regulations would be reviewed, modified, or enacted as necessary to provide the wolf population with appropriate levels of protection with the following possible actions: (1) Reclassify wolves as endangered or threatened under State regulations if population size declines to 200 or fewer wolves; (2) review, modify, recommend, and/or enact regulations, as necessary, to ensure appropriate levels of protection for the wolf population; and (3) if necessary to avoid a lapse in legal protection, amend the Wildlife Conservation Order to designate wolves as a protected animal (MI DNR 2015, p. 28).

The Michigan Plan emphasizes the need for public information and education efforts that focus on living with a recovered wolf population and ways to manage wolves and wolf–human interaction (both positive and negative) (MI DNR 2015, pp. 22–25). The Plan also recommends continuing important research efforts, continuing reimbursement for depredation losses, minimizing the impacts of captive wolves and wolf-dog hybrids on the wild wolf population, and citizen stakeholder involvement in the wolf-management program (MI DNR 2015, pp. 27, 52–53, 55–56, 60).

The Michigan Plan calls for establishing a wolf-management stakeholder group that would meet annually to monitor the progress made toward implementing the Plan. Furthermore, the Plan will be reviewed and updated at 5-year intervals to address ''ecological, social, and regulatory'' changes (MI DNR 2015, pp. 60–61). The plan also addresses currently available and potential new sources of funding to offset costs associated with wolf management (MI DNR 2015, pp. 61–62). The MI DNR has long been an innovative leader in wolf-recovery efforts, exemplified by its initiation of the nation's first attempt to reintroduce wild wolves to vacant historical wolf habitat in 1974 (Weise *et al.* 1975). The MI DNR's history of leadership in wolf recovery and its repeated written commitments to ensure the continued viability of a Michigan wolf population above a level that would trigger State or Federal listing as threatened or endangered further reinforces that the 2015 Michigan Wolf Management Plan would provide adequate regulatory mechanisms for Michigan wolves. The DNR's primary goal remains to conduct management to maintain the wolf population in Michigan above the minimum size that is biologically required for a viable, isolated population and to provide for ecological and social benefits valued by the public while resolving conflicts where they occur (MI DNR 2015, p. 16).

Depredation Control in Michigan—Data from Michigan show a general increase in confirmed events of wolf depredations on livestock over the past two decades, with an average of 3.4 animals killed annually from 1998 through 2002, an average of 10.6 annually in 2003–2007; an average of 38.2 annually from 2008–2012; and an average of 19.2 annually in 2013–2017. Over 80 percent of the depredation events were on cattle, with the rest on sheep, poultry, rabbits, goats, horses, swine, and captive deer (Roell *et al.* 2009, pp. 9, 11; Beyer *in litt.* 2018).

Michigan has not experienced as high a level of attacks on dogs by wolves as Wisconsin, although a slight increase in such attacks has occurred over the last decade. Yearly losses vary, and actions of a single pack of wolves can be an important influence. In Michigan, there is not a strong relationship between wolf depredation on dogs and wolf abundance (Roell *et al.* 2010, p. 7). The number of dogs killed in the State during the 15 years from 1996 to 2010 totaled 34; that number increased to 70 during the 7-year period from 2011 through 2017 (Beyer *in litt.* 2018). The majority of the wolf-related dog deaths

involved hounds used to hunt bears. Similar to Wisconsin, MI DNR has guidelines for its depredation-control program, stating that lethal control would not be used when wolves kill dogs that are free roaming, hunting, or training on public lands. Lethal control of wolves, however, would be considered if wolves have killed confined pets and remain in the area where more pets are being held (MI DNR 2005a, p. 6). However, in 2008, the Michigan Legislature passed a law that would allow dog owners or their designated agents to remove, capture, or, if deemed necessary, use lethal means to destroy a gray wolf that is in the act of preying upon the owner's dog, which includes dogs free roaming or hunting on public lands.

During the several years that lethal control of depredating wolves had been conducted in Michigan, there was no evidence of resulting adverse impacts to the maintenance of a viable wolf population in the Upper Peninsula. MI DNR and USDA–Wildlife Services killed 50 wolves in response to depredation events during the time period when permits or special rules were in effect or while wolves were not on the Federal lists of endangered and threatened species (Roell *et al.* 2010, p. 8). In 2008, Michigan passed two House bills that would become effective after Federal delisting. Those bills authorized a livestock or dog owner (or a designated agent) to ''remove, capture, or use lethal means to destroy a wolf that is in the act of preying upon'' the owner's livestock or dog. During the 2 months that wolves were federally and State delisted in 2009, no wolves were killed under these authorizations; 32 wolves were killed under these authorities from 2012 through 2014 (Beyer *in litt.* 2018). The numbers of wolves killed each year for depredation control are as follows: 4 (2003), 5 (2004), 2 (2005), 7 (2006), 14 (2007), 8 (2008), 1 (during 2 months in 2009), 18 (2012), 10 (2013), and 13 (2014) (Beyer *et al.* 2006, p. 88; Roell *in litt.* 2006, p. 1; Roell *et al.* 2010, p. 19; Beyer *in litt.* 2018). This represents 0.2 percent (2009) to 2.7 percent (2007) of the Upper Peninsula's late-winter population of wolves during the previous winter. During the years where depredation control took place absent a regulated public harvest, the wolf population increased from 2 percent (2007–2008) to 17 percent (2006–2007) despite the level of depredation control, demonstrating that the wolf population continues to increase at a healthy rate (Huntzinger *et al.* 2005, p. 6; MI DNR 2006, Roell *et al.* 2009, p. 4).

Post-delisting Depredation Control in Michigan—Following Federal delisting, wolf depredation control in Michigan would be carried out according to the 2015 Michigan Wolf Recovery and Management Plan (MI DNR 2015) and any Tribal wolf-management plans that may be developed in the future for reservations in occupied wolf range.

To provide depredation-control guidance when lethal control is an option, Michigan Department of Natural Resources has developed detailed instructions for incident investigation and response (MI DNR 2005a). Verification of wolf depredation incidents will be conducted by MI DNR or USDA–APHIS–Wildlife Services personnel (working under a cooperative agreement with MI DNR or at the request of a Tribe, depending on the location) who have been trained in depredation investigation techniques. The MI DNR specifies that the verification process would use the investigative techniques that have been developed and successfully used in Minnesota by Wildlife Services (MI DNR 2005a, append. B, pp. 9–10). Following verification, one or more of several options would be implemented to address the depredation problem. Technical assistance, consisting of advice or recommendations to reduce wolf conflicts, would be provided. Technical assistance may also include providing to the landowner various forms of noninjurious behavior modification materials, such as flashing lights, noise makers, temporary fencing, and fladry.

Trapping and translocating depredating wolves has been used in the past, resulting in the translocation of 23 Upper Peninsula wolves during 1998–2003 (Beyer *et al.* 2006, p. 88), but as with Wisconsin, suitable relocation sites are becoming rarer, and there is local opposition to the release of translocated depredators. Furthermore, none of the past translocated depredators have remained near their release sites, making this a questionable method to end the depredation behaviors of these wolves (MI DNR 2005a, pp. 3–4). Therefore, reducing depredation problems by relocation is no longer recommended as a management tool in Michigan (MI DNR 2008, p. 57).

Lethal control of depredating wolves is likely to be the most common future response in situations when improved livestock husbandry and wolf-behavior-modification techniques (for example, flashing lights, noise-making devices) are judged to be inadequate. As wolf numbers continue to increase on the Upper Peninsula, the number of verified depredations will also increase, and will probably do so at a rate that exceeds the rate of wolf population increase. This will occur as wolves increasingly disperse into and occupy areas of the Upper Peninsula with more livestock and more human residences, leading to additional exposure to domestic animals. In a previous application for a lethal take permit under section 10(a)(1)(A) of the Act, MI DNR received authority to euthanize up to 10 percent of the late-winter wolf population annually (MI DNR 2005b, p. 1). However, based on 2003–05 and 2007–09 depredation data, it is likely that significantly less than 10 percent lethal control would be needed over the next several years.

The Michigan Plan provides recommendations to guide management of various conflicts caused by wolf recovery, including depredation on livestock and pets, human safety, and public concerns regarding wolf impacts on other wildlife. We view the Michigan Plan's depredation and conflict control strategies to be conservative, in that they commit to nonlethal depredation management whenever possible, oppose preventative wolf removal where problems have not yet occurred, encourage incentives for best management practices that decrease wolf–livestock conflicts without affecting wolves, and support closely monitored and enforced take by landowners of wolves ''in the act of livestock depredation'' or under limited permits if depredation is confirmed and nonlethal methods are determined to be ineffective. Based on these components of the revised Michigan Plan and the stated goal for maintaining wolf populations at or above recovery goals, the Service concludes that any wolf-management changes implemented following delisting would not be implemented in a manner that results in significant reductions in Michigan wolf populations. The MI DNR remains committed to ensuring a viable wolf population above a level that would trigger re-listing as either threatened or endangered in the future (MI DNR 2015, p. 8).

Similar to Wisconsin, Michigan livestock owners are compensated when they lose livestock as a result of a confirmed wolf depredation. Currently there are two complementary compensation programs in Michigan, one funded by the MI DNR and implemented by Michigan Department of Agriculture (MI DA) and another set up through donations (from Defenders of Wildlife and private citizens) and administered by the International Wolf Center (IWC), a nonprofit organization. From the inception of the program to

2000, MI DA has paid 90 percent of full market value of depredated livestock at the time of loss. The IWC account was used to pay the remaining 10 percent from 2000 to 2002 when MI DA began paying 100 percent of the full market value of depredated livestock. The IWC account continues to be used to pay the difference between value at time of loss and the full fall market value for depredated young-of-the-year livestock, and together the two funds have provided nearly $183,000 in livestock-loss compensation through 2017 (Roell et al. 2010, p. 15; Beyer *in litt.* 2018). Neither of these programs provides compensation for pets or for veterinary costs to treat wolf-inflicted livestock injuries. The MI DNR plans to continue cooperating with MI DA and other organizations to maintain the wolf-depredation-compensation program (MI DNR 2008, pp. 59–60).

Post-delisting Regulated Harvest in Michigan—Although the Michigan Plan itself does not determine whether a public harvest would be used as a management strategy, it does discuss developing ''socially and biologically responsible management recommendations regarding public harvest of wolves'' (MI DNR 2015, p. 56). The Michigan Plan discusses developing recommendations regarding public harvest for two separate purposes: To reduce wolf-related conflicts and for reasons other than managing wolf-related conflicts (*e.g.,* recreational and utilitarian purposes). With regard to implementing a public harvest for recreational or utilitarian purposes, the Michigan Plan identifies the need to gather and evaluate biological and social information, including the biological effects and the public acceptability of a general wolf harvest (MI DNR 2015, p. 60). A public harvest during a regulated season requires that wolves be classified as game animals in Michigan (they were classified as such in 2015). With wolves classified as game animals, the Michigan Natural Resource Commission (NRC) has the exclusive authority to enact regulations pertaining to the methods and manner of public harvest. Although the decisions regarding establishment of a harvest season would be made by the NRC, the MI DNR would be called upon to make recommendations regarding socially and biologically responsible public harvest of wolves. Michigan held a regulated public hunting season in 2014 that took into consideration the recommendations of the MI DNR. Based on those recommendations, the Michigan NRC established quotas for that season based on zones in the Upper Peninsula, with a quota of 16 wolves in the far western part of the peninsula, 19 in 4 central counties, and 8 in the eastern part of the peninsula. Twenty-two wolves were taken during that 2014 season.

Post-Delisting Management in the West Coast States

Wolves are classified as endangered under the Washington State Endangered Species Act (WAC 220–610–010). Unlawful taking (when a person hunts, fishes, possesses, maliciously harasses or kills endangered fish or wildlife, and the taking has not been authorized by rule of the commission) of endangered fish or wildlife is prohibited in Washington (RCW 77.15.120). Wolves in California are similarly classified as endangered under the California Endangered Species Act (CESA; California Fish and Game Commission 2014, entire). Under CESA, take (defined as hunt, pursue, catch, capture, kill, or attempts to hunt, pursue, catch, capture, or kill) of listed wildlife species is prohibited (California Fish and Game Codes § 86 and § 2080). Wolves in Oregon have achieved recovery objectives and were delisted from the State Endangered Species Act in 2015. Wolves in Oregon remain protected by the State Plan and its associated rules, and Oregon's wildlife policy. The wildlife policy states ''that wildlife shall be managed to prevent the serious depletion of any indigenous species'' and includes seven coequal management goals (ORS 496.012) (ODFW 2017, p. 6). Although it remains a possibility for the future, there are no current plans to initiate a hunting season, and regulatory mechanisms remain in place through the State plan and Oregon statute to ensure a sustainable wolf population.

Oregon, Washington, and California also have adopted wolf-management plans intended to provide for the conservation and reestablishment of wolves in these States (ODFW 2010, entire; Wiles *et al.* 2011, entire; CDFW 2016a, entire; 2016b, entire). These plans include population objectives, education and public outreach goals, damage-management strategies, and monitoring and research plans. Wolves will remain on State endangered species lists in Washington and California until recovery objectives have been reached. Once recovery objectives have been achieved, the process for delisting wolves at the State level will be initiated. Once removed, the States have the authority to consider using regulated harvest to manage wolf populations. All three State plans also recognize that management of livestock conflicts is a necessary component of wolf management (ODFW 2010, p. 40; Wiles *et al.* 2011, p. 72; CDFW 2016a, p. 4). Control options are currently limited to preventative and nonlethal methods within the federally listed portions of Oregon, Washington, and California. If Federal delisting occurs, guidelines outlined in each State's plan define conditions under which depredating wolves can be lethally removed by agency officials (CDFW 2016b, pp. 278–285; ODFW 2010, pp. 43–54; Wiles *et al.* 2011, pp. 72–94).

The Oregon Wolf Management Plan—The Oregon Wolf Conservation and Management Plan was developed prior to wolves becoming established in Oregon. The plan, first finalized in 2005, contains provisions that require it to be updated every 5 years. The first revision occurred in 2010, and a subsequent revision is presently under review. The Oregon Fish and Wildlife Commission provided a set of guiding principles to a newly formed Wolf Advisory Committee, which was directed to work on plan development. The guiding principles included writing a plan based on the conservation of wolves, incorporating public concerns and comments, not allowing reintroduction of wolves into Oregon, providing flexibility for management while conserving wolves, seeking assistance for livestock producers for wolf depredation, and assessing of impacts to prey populations. Key stakeholder groups are invited to participate in reviews of revisions to the plan. Stakeholders include local government, Tribes, non-governmental organizations, State agencies and organizations, and Federal agencies.

The Oregon plan includes two management zones that roughly divide the State into western and eastern halves. This division line is further to the west of the line that delineates the listed and non-listed portions of Oregon. Each zone has a separate population objective of seven breeding pairs (ODFW 2017, p. 16). Within each zone, management phases (Phase I, Phase II, and Phase III) are used to assess population objectives, which in turn influence conservation and management objectives.

Phase I includes a conservation population objective of obtaining four breeding pairs for 3 consecutive years; upon reaching this objective, delisting of wolves statewide may be initiated. The ODFW defines a breeding pair as a pack of wolves with an adult male, an adult female, and at least two pups surviving to the end of December (ODFW 2010, p. 17). This population objective was met in 2014 in the eastern

management zone, and wolves were State delisted in Oregon in 2015. Wolves in the eastern management zone were then managed under Phase II (ODFW 2016, p. 2). Wolves in the western management zone have yet to reach this conservation objective. Despite State delisting, wolves in the western management zone (currently in Phase I) are still managed with a level of protection mimicking that of Oregon ESA protections for wolves.

Phase II management actions work towards a management population objective of seven breeding pairs in the eastern management zone for 3 consecutive years. During this phase populations are managed to prevent declines that could result in re-listing under the Oregon ESA. This Phase II management population objective was met in 2016, which resulted in the transition of management to Phase III for the eastern management zone (ODFW 2017, p. 2).

Phase III acts to set a balance such that populations do not decline below Phase II objectives, but also do not reach unmanageable levels resulting in conflicts with other land uses. Phase III is a maintenance phase. While the 2010 plan does not include a minimum or maximum population level for wolves in Oregon, the plan leaves room for development of population thresholds in future planning efforts (ODFW 2010, p. 28). Similarly, legal harvest of wolves is not included in Phase III of the 2010 plan; however, Phase III does provide more management flexibility in the case of depredating wolves (ODFW 2010, p. 45). Currently, hunting of wolves is not permitted in Oregon.

The Washington Wolf Management Plan—The 2011 Wolf Conservation and Management Plan for Washington was developed in response to the State endangered status for the species, the expectation that the wolf population in Washington would be increasing through natural dispersal of wolves from adjacent populations, and the eventual return of wolf management to the State after Federal delisting. The purpose of the plan is to facilitate reestablishment of a self-sustaining population of gray wolves in Washington and to encourage social tolerance for the species by addressing and reducing conflicts. An advisory Wolf Working Group was appointed at the outset to give recommendations on the plan. In addition, the plan underwent extensive peer and public review prior to finalization.

The Washington Plan provides recovery goals for downlisting and delisting the species under Washington State law, and identifies strategies to achieve recovery and manage conflicts with livestock and ungulates. Recovery objectives are defined as numbers of successful breeding pairs that are maintained on the landscape for 3 consecutive years, with a set geographic distribution within 3 specified recovery regions: The Eastern Washington, Northern Cascades, and Southern Cascades and Northwest Coast (Wiles *et al.* 2011, p. 60 figure 9). A successful breeding pair of wolves is defined in the Washington Plan as an adult male and an adult female with at least two pups surviving to December 31 in a given year (Wiles *et al.* 2011, p. 58). Specific target numbers and distribution for downlisting and delisting within the three recovery regions identified in the Washington Plan are as follows:

- To reclassify from State endangered to State threatened status: 6 successful breeding pairs present for 3 consecutive years, with 2 successful breeding pairs in each of the three recovery regions.
- To reclassify from State threatened to State sensitive status: 12 successful breeding pairs present for 3 consecutive years, with 4 successful breeding pairs in each of the three recovery regions.
- To delist from State sensitive status: 15 successful breeding pairs present for 3 consecutive years, with 4 successful breeding pairs in each of the three recovery regions and 3 successful breeding pairs anywhere in the State.

In addition to the delisting objective of 15 successful breeding pairs distributed in the three geographic regions for 3 consecutive years, an alternative delisting objective is also established whereby the gray wolf will be considered for delisting when 18 successful breeding pairs are present, with 4 successful breeding pairs in the Eastern Washington region, 4 successful breeding pairs in the Northern Cascades region, 4 successful breeding pairs distributed in the Southern Cascades and Northwest Coast region, and 6 anywhere in the State.

After State delisting, wolves could be reclassified as a game animal through the Washington Fish and Wildlife Commission's public process. WDFW intends to develop a new plan for managing wolves following Federal and State delisting. Any proposals to hunt wolves would go through a public process with the Fish and Wildlife Commission (Wiles *et al.* 2011, pp. 70–71).

The California Wolf Management Plan—The 2016 *Conservation Plan for Gray Wolves in California* was developed in anticipation of the return of wolves to California. The CDFW worked with stakeholder groups in 2014 and 2015 during plan development. Stakeholders included local government, non-governmental organizations, State agencies and organizations, and Federal agencies. During the planning process, CDFW and the stakeholders identified sideboards and plan goals to direct development of the State plan. These sideboards and goals included direction to develop alternatives for wolf management, no reintroduction of wolves into California, historical distribution and abundance are not achievable, conserve biologically sustainable populations, manage native ungulates for wolf and human uses, management to minimize livestock depredations, and public outreach.

The California Plan recognizes that wolf activity in the State will increase with time, and that the plan needs to be flexible to account for information that is gained during the expansion of wolves into the State. Similar to plans for other States, the California Plan uses a three-phase strategy for wolf conservation and management.

Phase I is a conservation-based strategy to account for the reestablishment of wolves under both State and Federal Endangered Species Acts. Phase I will end when there are four breeding pairs for 2 consecutive years in California. The CDFW defines a breeding pair as at least one adult male, one adult female, and at least two pups that survive to the end of December (CDFW 2016a, p. 21). California is currently in Phase I of the plan, with the Lassen Pack as the only breeding pair present for 2 consecutive years.

Phase II is expected to represent a point at which California's wolf population is growing more through reproduction of resident wolves than by dispersal of wolves from other States. This phase will conclude when there are eight breeding pairs for 2 consecutive years. During Phase II, CDFW anticipates gaining additional information and experience with wolves in the State, which will help inform future revisions to the State plan. During Phase II, flexibility for managing wolves for depredation response or predation on wild ungulates may be initiated.

Phase III is less specific due to the information available to CDFW at the time of plan development. This phase moves toward longer term management of wolves in California. Specific aspects of Phase III are more likely to be developed toward the middle of Phase II when more information on wolf distribution and abundance in the State are available. Towards the end of Phase II and the beginning of Phase III, a status review of wolves in California may be

initiated to determine if continued State listing as endangered is warranted. Currently, hunting of wolves is not permitted in California.

Tribal Management and Conservation of Wolves

Native American tribes and inter-tribal resource-management organizations have indicated to the Service that they will continue to conserve wolves on most, and probably all, Native American reservations in the primary wolf areas of the Great Lakes area. The wolf retains great cultural significance and traditional value to many Tribes and their members, and to retain and strengthen cultural connections, many tribes oppose unnecessary killing of wolves on reservations and on ceded lands, even following any Federal delisting (Hunt *in litt.* 1998; Schrage *in litt.* 1998a; Schlender *in litt.* 1998). Some Native Americans view wolves as competitors for deer and moose, whereas others are interested in harvesting wolves as furbearers (Schrage *in litt.* 1998a). Many tribes intend to sustainably manage their natural resources, wolves among them, to ensure that they are available to their descendants. Traditional natural-resource harvest practices, however, often include only a minimum amount of regulation by the Tribal governments (Hunt *in litt.* 1998).

Although not all Tribes with wolves that visit or reside on their reservations have completed management plans specific to the wolf, several Tribes have informed us that they have no plans or intentions to allow commercial or recreational hunting or trapping of the species on their lands after Federal delisting. The Red Lake Band of Chippewa Indians (Minnesota) and the Little Traverse Bay Band of Odawa Indians (Michigan) have developed wolf monitoring and/or management plans. The Service has also awarded a grant to the Ho-Chunk Nation to identify wolf habitat on reservation lands.

As a result of many past contacts with, and previous written comments from, the Midwestern Tribes and their inter-tribal natural-resource-management agencies—the Great Lakes Indian Fish and Wildlife Commission (GLIFWC), the 1854 Authority, and the Chippewa Ottawa Treaty Authority—it is clear that their predominant sentiment is strong support for the continued protection of wolves at a level that ensures that viable wolf populations remain on reservations and throughout the treaty-ceded lands surrounding the reservations. While several Tribes stated that their members may be interested in killing small numbers of wolves for spiritual or other purposes, this would be carried out in a manner that would not affect reservation or ceded-territory wolf populations.

The Red Lake Band of Chippewa Indians (Minnesota) completed a wolf-management plan in 2010 (Red Lake Band of Chippewa Indians 2010). A primary goal of the management plan is to maintain wolf numbers at a level that will ensure the long-term survival of wolves on Red Lake lands. Key components of the plan are habitat management, public education, and law enforcement. To address human–wolf interactions, the plan outlines how wolves may be taken on Red Lake lands. Wolves thought to be a threat to public safety may be harassed at any time, and if they must be killed, the incident must be reported to tribal law enforcement. Agricultural livestock are not common on Red Lake lands, and wolf-related depredation on livestock or pets is unlikely to be a significant management issue. If such events do occur, tribal members may protect their livestock or pets by lethal means, but ''all reasonable efforts should be made to deter wolves using non-lethal means'' (Red Lake Band of Chippewa Indians 2010, p. 15). Hunting or trapping of wolves on tribal lands will be prohibited. The Reservation currently has 7 or 8 packs with an estimated 40–48 wolves within its boundaries (Red Lake Band of Chippewa Indians 2010, p. 12).

In 2009, the Little Traverse Bay Bands of Odawa Indians (LTBB) finalized a management plan for the 1855 Reservation and portions of the 1836 ceded territory in the northern Lower Peninsula of Michigan (Little Traverse Bay Bands of Odawa Indians Natural Resource Department 2009). The plan provides the framework for managing wolves on the LTBB Reservation with the goal of maintaining a viable wolf presence on the LTBB Reservation or within the northern Lower Peninsula should a population become established by (1) prescribing scientifically sound biological strategies for wolf management, research, and monitoring; (2) addressing wolf-related conflicts; (3) facilitating wolf-related benefits; and (4) developing and implementing wolf-related education and public information.

The Tribal Council of the Leech Lake Band of Minnesota Ojibwe (Council) approved a resolution that describes the sport and recreational harvest of wolves as an inappropriate use of the animal. That resolution supports limited harvest of wolves to be used for traditional or spiritual uses by enrolled Tribal members if the harvest is done in a respectful manner and would not negatively affect the wolf population. Over the last several years, the Council has been working to revise the Reservation Conservation Code to allow Tribal members to harvest some wolves after Federal delisting (Googgleye, Jr. *in litt.* 2004; Johnson *in litt.* 2011). Until this revision occurs, it is unknown whether harvest would be allowed and how a harvest might be implemented. The Tribe is currently developing a wolf-management plan (Mortensen 2011, pers. comm.). In 2005, the Leech Lake Reservation was home to an estimated 75 wolves, the largest population of wolves on a Native American reservation in the 48 conterminous States (Mortensen 2006, pers. comm.; White *in litt.* 2003). Although no recent surveys have been conducted, the number of wolves on the reservation likely remains about the same (Mortensen 2009, pers. comm.; Johnson *in litt.* 2011).

The Fond du Lac Band (Minnesota) believes that the ''well-being of the wolf is intimately connected to the well-being of the Chippewa People'' (Schrage *in litt.* 2003). In 1998, the Band passed a resolution opposing Federal delisting and any other measure that would permit trapping, hunting, or poisoning of the wolf (Schrage *in litt.* 1998b; *in litt.* 2003; 2009, pers. comm.). If the prohibition of trapping, hunting, or poisoning is rescinded, the Band's Resource Management Division would coordinate with State and Federal agencies to ensure that any wolf hunting or trapping would be ''conducted in a biologically sustainable manner'' (Schrage *in litt.* 2003).

The Red Cliff Band (Wisconsin) has strongly opposed State and Federal delisting of the gray wolf. Current Tribal law protects wolves from harvest, although harvest for ceremonial purposes would likely be permitted after Federal delisting (Symbal *in litt.* 2003).

The Menominee Indian Tribe of Wisconsin is committed to establishing a self-sustaining wolf population, continuing restoration efforts, ensuring the long-term survival of the wolf in Menominee, placing emphasis on the cultural significance of the wolf as a clan member, and resolving conflicts between wolves and humans. The Tribe has shown a great deal of interest in wolf recovery and protection. In 2002, the Tribe offered their Reservation lands as a site for translocating seven depredating wolves that had been trapped by WI DNR and Wildlife Services. Tribal natural resources staff participated in the soft release of the wolves on the Reservation and helped

with the subsequent radio-tracking of the wolves. Although by early 2005 the last of these wolves died on the reservation, the tribal conservation department continued to monitor another pair that had moved onto the Reservation, as well as other wolves near the reservation (Wydeven *in litt.* 2006). When the female of that pair was killed in 2006, Reservation biologists and staff worked diligently to raise the orphaned pups in captivity with the WI DNR and the Wildlife Science Center (Forest Lake, Minnesota) in the hope that they could later be released to the care of the adult male. However, the adult male died prior to pup release, and they were moved back to the Wildlife Science Center (Pioneer Press 2006). The Menominee Tribe continues to support wolf conservation and monitoring activity in Wisconsin.

The Keweenaw Bay Indian Community (Michigan) would continue to list the wolf as a protected animal under the Tribal Code following any Federal delisting, with hunting and trapping prohibited (Mike Donofrio 1998, pers. comm.). Furthermore, the Keweenaw Bay Community developed a management plan in 2013 that ''provides a course of action that will ensure the long-term survival of a self-sustaining, wild gray wolf (*Canis lupus*) population in the 1842 ceded territory in the western Upper Peninsula of Michigan'' (KBIC Tribal Council 2013, p. 1). At least four other Tribes (Stockbridge Munsee Community, Lac Courte Oreilles Band of Ojibwe, the Mille Lacs Band of Ojibwe, and Grand Portage Band of Lake Superior Chippewa) have indicated plans to develop Tribal wolf-management plans.

Several Midwestern Tribes (for example, the Bad River Band of Lake Superior Chippewa Indians and the LTBB) have expressed concern that Federal delisting would result in increased mortality of wolves on reservation lands, in the areas immediately surrounding the reservations, and in lands ceded by treaty to the Federal Government by the Tribes (Kiogama and Chingwa *in litt.* 2000). In 2006, a cooperative effort among tribal natural resource departments of several tribes in Wisconsin, WI DNR, the Service, and USDA Wildlife Services led to a wolf-management agreement for lands adjacent to several reservations in Wisconsin. The goal is to reduce the threats to reservation wolf packs when they are temporarily off the reservation. Other Tribes have expressed interest in such an agreement. This agreement, and additional agreements if they are implemented, provides supplementary protection to certain wolf packs in the western Great Lakes area.

The GLIFWC has stated its intent to work closely with the States to cooperatively manage wolves in the ceded territories in the core areas, and will not develop a separate wolf-management plan (Schlender *in litt.* 1998). Furthermore, the Voigt Intertribal Task Force of GLIFWC has expressed its support for strong protections for the wolf, stating ''[delisting] hinges on whether wolves are sufficiently restored and will be sufficiently protected to ensure a healthy and abundant future for our brother and ourselves'' (Schlender *in litt.* 2004).

According to the 1854 Authority, ''attitudes toward wolf management in the 1854 Ceded Territory run the gamut from a desire to see total protection to unlimited harvest opportunity.'' However, the 1854 Authority would not ''implement a harvest system that would have any long-term negative impacts to wolf populations'' (Edwards *in litt.* 2003). In comments submitted for our 2004 delisting proposal for a larger Eastern DPS of the gray wolf, the 1854 Authority stated that the Authority is ''confident that under the control of State and tribal management, wolves will continue to exist at a self-sustaining level in the 1854 Ceded Territory. Sustainable populations of wolves, their prey and other resources within the 1854 Ceded Territory are goals to which the 1854 Authority remains committed. As such, we intend to work with the State of Minnesota and other tribes to ensure successful state and tribal management of healthy wolf populations in the 1854 Ceded Territory'' (Myers *in litt.* 2004).

While there are few written Tribal protections currently in place for wolves, the highly protective and reverential attitudes that have been expressed by Tribal authorities and members have assured us that any post-delisting harvest of reservation wolves would be very limited and would not adversely affect the delisted wolf populations. Furthermore, any off-reservation harvest of wolves by tribal members in the ceded territories would be limited to a portion of the harvestable surplus at some future time. Such a harvestable surplus would be determined and monitored jointly by State and tribal biologists, and would be conducted in coordination with the Service and the Bureau of Indian Affairs (BIA), as is being successfully done for the ceded territory harvest of inland and Great Lakes fish, deer, bear, moose, and furbearers in Minnesota, Wisconsin, and Michigan. Therefore, we conclude that any future Native American take of delisted wolves will not significantly affect the viability of the wolf population, either locally or across the Great Lakes area.

The Service and the Department of the Interior recognize the unique status of the federally recognized tribes, their right to self-governance, and their inherent sovereign powers over their members and territory. Therefore, the Department, the Service, the BIA, and other Federal agencies, as appropriate, will take the needed steps to ensure that tribal authority and sovereignty within reservation boundaries are respected as the States implement their wolf-management plans and revise those plans in the future.

Furthermore, there may be tribal activities or interests associated with wolves encompassed within the tribes' retained rights to hunt, fish, and gather in treaty-ceded territories. The Department is available to assist in the exercise of any such rights. If biological assistance is needed, the Service may provide it via our field offices. Upon delisting, the Service would remain involved in the post-delisting monitoring of the wolves in the Great Lakes area, but all Service management and protection authority under the Act would end. Legal assistance would be provided to the tribes by the Department of the Interior, and the BIA would be involved, when needed. We strongly encourage the States and Tribes to work cooperatively toward post-delisting wolf management if wolves are delisted.

Consistent with our responsibilities to tribes and our goal to have the most comprehensive data available for our post-delisting monitoring, we would annually contact tribes and their designated intertribal natural resource agencies during the 5-year post-delisting monitoring period to obtain any information they wish to share regarding wolf populations, the health of those populations, or changes in their management and protection. Reservations that may have significant wolf data to provide during the post-delisting period include Bois Forte, Bad River, Fond du Lac, Grand Portage, Keweenaw Bay Indian Community, Lac Courte Oreilles, Lac du Flambeau, Leech Lake, Menominee, Oneida, Red Lake, Stockbridge-Munsee Community, and White Earth. Throughout the 5-year post-delisting monitoring period, the Service would annually contact the natural resource agencies of each of these reservations and that of the 1854 Treaty Authority and Great Lakes Indian Fish and Wildlife Commission.

Management on Federal Lands

Great Lakes Area

The five national forests with resident wolves (Superior, Chippewa, Chequamegon-Nicolet, Hiawatha, and Ottawa National Forests) in Minnesota, Wisconsin, and Michigan are all operating in conformance with standards and guidelines in their management plans that follow the 1992 Recovery Plan for the Eastern Timber Wolf's recommendations for the eastern timber wolf (USDA Forest Service (FS) 2004a, chapter 2, p. 31; USDA FS 2004b, chapter 2, p. 28; USDA FS 2004c, chapter 2, p. 19; USDA FS 2006a, chapter 2, p. 17; USDA FS 2006b, chapter 2, pp. 28–29). Delisting is not expected to lead to an immediate change in these standards and guidelines; in fact, the Regional Forester for U.S. Forest Service Region 9 expects to maintain the classification of the wolf as a Regional Forester Sensitive Species for at least 5 years after Federal delisting (Moore *in litt.* 2003; Eklund *in litt.* 2011). The Regional Forester has the authority to recommend classification or declassification of species as Sensitive Species. Under these standards and guidelines, a relatively high prey base will be maintained, and road densities will be limited to current levels or decreased. For example, on the Chequamegon-Nicolet National Forest in Wisconsin, the standards and guidelines specifically include the protection of den sites and key rendezvous sites, and management of road densities in existing and potential wolf habitat (USDA 2004c, chap. 2, p. 19).

The trapping of depredating wolves would likely be allowed on national forest lands under the guidelines and conditions specified in the respective State wolf-management plans. However, there are relatively few livestock raised within the boundaries of national forests in the upper Midwest, so wolf depredation and lethal control of wolves is neither likely to be a frequent occurrence, nor constitute a significant mortality factor, for the wolves in the Great Lakes area. Similarly, in keeping with the practice for other State-managed game species, any public hunting or trapping season for wolves that might be opened in the future by the States would likely include hunting and trapping within the national forests (Lindquist *in litt.* 2005; Williamson *in litt.* 2005; Piehler *in litt.* 2005; Evans *in litt.* 2005). The continuation of current national forest management practices will be important in ensuring the long-term viability of wolf populations in Minnesota, Wisconsin, and Michigan.

Wolves regularly use four units of the National Park System in the Great Lakes area and may occasionally use three or four other units. Although the National Park Service (NPS) has participated in the development of some of the State wolf-management plans in this area, NPS is not bound by States' plans. Instead, the NPS Organic Act and the NPS Management Policy on Wildlife generally require the agency to conserve natural and cultural resources and the wildlife present within the parks. NPS management policies require that native species be protected against harvest, removal, destruction, harassment, or harm through human action, although certain parks may allow some harvest in accordance with State management plans. Management emphasis in National Parks after delisting would continue to minimize the human impacts on wolf populations. Thus, because of their responsibility to preserve all native wildlife, units of the National Park System are often the most protective of wildlife. In the case of the wolf, the NPS Organic Act and NPS policies would continue to provide protection following Federal delisting.

Management and protection of wolves in Voyageurs National Park, along Minnesota's northern border is not likely to change after delisting. The park's management policies require that ''native animals will be protected against harvest, removal, destruction, harassment, or harm through human action.'' No population targets for wolves will be established for the National Park (Holbeck *in litt.* 2005). To reduce human disturbance, temporary closures around wolf denning and rendezvous sites will be enacted whenever they are discovered in the park. Sport hunting is already prohibited on park lands, regardless of what may be allowed beyond park boundaries (West *in litt.* 2004). A radio-telemetry study conducted between 1987 and 1991 of wolves living in and adjacent to the park found that all mortality inside the park was due to natural causes (for example, killing by other wolves or starvation), whereas the majority (60–80 percent) of mortality outside the park was human-induced (for example, shooting and trapping) (Gogan *et al.* 2004, p. 22). If there is a need to control depredating wolves outside the park, which seems unlikely due to the current absence of agricultural activities adjacent to the park, the park would work with the State to conduct control activities where necessary (West *in litt.* 2004).

The wolf population of Isle Royale National Park, Michigan, is small and isolated and lacks genetic uniqueness (Wayne *et al.* 1991). For genetic reasons and constraints on expansion due to the island's small size, this wolf population does not contribute significantly towards meeting numerical recovery criteria; however, long-term research on this wolf population has added a great deal to our knowledge of the species. The wolf population on Isle Royale has typically varied from 18 to 27 wolves in 3 packs, but has been down to just 2 wolves (a father-daughter pair) since the winter of 2015–2016 (Peterson *et al.* 2018). NPS recently announced plans to move additional wolves to Isle Royale in an effort to restore a viable wolf population (83 FR 11787; March 16, 2018).

Two other units of the National Park System, Pictured Rocks National Lakeshore and St. Croix National Scenic Riverway, are regularly used by wolves. Pictured Rocks National Lakeshore is a narrow strip of land along Michigan's Lake Superior shoreline. Lone wolves periodically use, but do not appear to be year-round residents of, the Lakeshore. If denning occurs after delisting, the Lakeshore would protect denning and rendezvous sites at least as strictly as the Michigan Plan recommends (Gustin *in litt.* 2003). Harvesting wolves on the Lakeshore may be allowed (if the Michigan DNR allows for harvest in the State), but trapping is not allowed. The St. Croix National Scenic Riverway, in Wisconsin and Minnesota, is also a mostly linear ownership. Approximately 54–58 wolves from 11 packs used the Riverway on the Wisconsin side in 2010 (Wydeven *in litt.* 2011). The Riverway is likely to limit public access to denning and rendezvous sites and to follow other management and protective practices outlined in the respective State wolf-management plans, although trapping is not allowed on NPS lands except possibly by Native Americans (Maercklein *in litt.* 2003).

At least one pack of 4–5 wolves used the shoreline areas of the Apostle Islands National Lakeshore, with a major deer yard area (a place where deer congregate in the winter) occurring on portions of the Park Service land. Wolf tracks have been detected on Sand Island, and a wolf was photographed by a trail camera on the island in September 2009. It is not known if wolves periodically swim to this and other islands, or if they only travel to islands on ice in winter.

Wolves occurring on National Wildlife Refuges in the Great Lakes area would be monitored, and Refuge habitat management would maintain the current prey base for them for a minimum of 5 years after delisting.

Trapping or hunting by government trappers for depredation control would not be authorized on National Wildlife Refuges. Because of the relatively small size of these Refuges, however, most or all wolf packs or individual wolves in these Refuges also spend significant amounts of time off these Refuges.

Wolves also occupy the Fort McCoy military installation in Wisconsin. Management and protection of wolves on the installation would not change significantly after Federal or State delisting. Den and rendezvous sites would continue to be protected, hunting seasons for other species (coyote) would be closed during the gun-deer season, and current surveys would continue, if resources are available. Fort McCoy has no plans to allow a public harvest of wolves on the installation (Nobles *in litt.* 2004; Wydeven *et al.* 2005, p. 25; 2006a, p. 25).

Minnesota National Guard's Camp Ripley contains parts of two pack territories, which typically include 10 to 20 wolves. Minnesota National Guard wildlife managers try to have at least one wolf in each pack radio-collared and to fit an additional one or two wolves in each pack with satellite transmitters that record long-distance movements. There have been no significant conflicts with military training or with the permit-only public deer-hunting program at the camp, and no new conflicts are expected following delisting. Long-term and intensive monitoring has detected only two wolf mortalities within the camp boundaries—both were of natural causes (Dirks 2009, pers. comm.).

The protection afforded to resident and transient wolves, their den and rendezvous sites, and their prey by five national forests, four National Parks, two military facilities, and numerous National Wildlife Refuges in Minnesota, Wisconsin, and Michigan will further ensure the conservation of wolves in the three States after delisting. In addition, wolves that disperse to other units of the National Refuge System or the National Park System within the Great Lakes area will also receive the protection afforded by these Federal agencies.

West Coast States

The west coast States generally contain a greater proportion of public land than the Great Lakes area. Public lands here include many National Parks, National Forests, National Monuments, and National Wildlife Refuges. These areas are largely unavailable and/or unsuitable for intensive development, and contain abundant ungulate populations. A lack of human occupancy and development combined with an adequate prey base increase the likelihood of public lands in the west coast States to provide suitable habitat for gray wolves.

In the listed portions of the west coast States of California, Oregon, and Washington, wolves are resident on portions of the Lassen, Plumas, Fremont-Winema, Rogue-Siskiyou, Mount Hood, Okanogan-Wenatchee, and Mt. Baker-Snoqualmie National Forests (Forests). Land and Resource Management Plans (LRMPs) for these Forests pre-date the re-establishment of wolf packs and, therefore, do not contain standards and guidelines specific to wolf management. The LRMPs do, however, recognize that the Forests have obligations under sections 7(a)(1) and 7(a)(2) of the Act to proactively conserve and avoid adverse effects to Federally listed species. If federally delisted, the Regional Foresters for U.S. Forest Service Regions 5 and 6 are expected to include the gray wolf as a Regional Forester Sensitive Species. As a Sensitive Species, conservation objectives for the gray wolf and its habitat will continue to be addressed during planning and implementation of projects.

Gray wolves disperse through but are not currently residents of National Parks, National Monuments, and National Wildlife Refuges in the listed portions of all three west coast States. Similar to these types of lands in the Great Lakes areas, management plans provide for the conservation of natural and cultural resources and wildlife. The gray wolf and its habitat are expected to persist on these lands should Federal delisting occur.

Overall, public lands on the west coast have the ability to support the continued expansion of gray wolves as they disperse from resident packs and surrounding States and provinces to establish new packs in the west coast States. Because these areas are in public ownership and we do not foresee habitat-related threats, we conclude that they will continue to provide secure, optimal habitat for a resident wolf population.

Summary of Post-Delisting Management

In summary, upon delisting, there will be varying State and Tribal classifications and protections provided to wolves. The State wolf-management plans currently in place for Minnesota, Wisconsin, and Michigan will be more than sufficient to retain viable wolf populations in each State. Each of those plans contains management goals that will maintain healthy populations of wolves in their State by establishing a minimum population of 1,600 in Minnesota, 350 in Wisconsin, and 200 in Michigan. Similarly, State management plans developed for Washington, Oregon, and California contain objectives to conserve and recover gray wolves. To ensure healthy populations are maintained, each State will monitor population abundance and trends, habitat and prey availability, and impacts of disease and take actions as needed to maintain populations. They are also committed to continuing necessary biological and social research and outreach and education to maintain healthy wolf populations. Each of the three Great Lakes States has a long-standing history of leadership in wolf conservation. All of the State management plans provide a high level of assurance of the persistence of healthy wolf populations, demonstrating their commitment to wolf conservation.

Furthermore, when federally delisted, wolves in Minnesota, Wisconsin, and Michigan will continue to receive protection from general human persecution by State laws and regulations. Wolves are protected as game species in each of those States, which prohibits lethal take without a permit, license, or authorization, except under a few limited situations (as described under the management plans above). Each of the three States will consider population-management measures, including public hunting and trapping, after Federal delisting, but regardless of the methods used to manage wolves, each State will maintain minimum wolf populations to ensure healthy wolf populations remain.

Wolves in Washington, Oregon, and California will also be protected by State laws and regulations when federally delisted. Currently wolves in Washington and California are protected under State statutes or acts as endangered species, as well as by their respective State management plans. Wolves in Oregon are State delisted but still receive protection under its State management plan. Each plan contains various phases outlining objectives for conservation and recovery. As recolonization of the west coast States continues, different phases of management will be enacted. All phases within the various State management plans are designed to achieve and maintain healthy wolf populations.

Finally, based on our review of the completed Tribal management plans and communications with Tribes and Tribal organizations, federally delisted wolves are very likely to be adequately protected on Tribal lands. Furthermore, the minimum population goals of the

Minnesota, Wisconsin, and Michigan State management plans can be achieved (based on the population and range of off-reservation wolves) even without Tribal protection of wolves on reservation lands. In addition, on the basis of information received from other Federal land-management agencies, we expect National Forests, units of the National Park System, military bases, and National Wildlife Refuges will provide protections to wolves in the areas they manage that will match, and in some cases will exceed, the protections provided by State wolf-management plans and State protective regulations.

Determination of Species Status

Under the Act and our implementing regulations, a species may warrant listing if it is in danger of extinction or likely to become so throughout all or a significant portion of its range. The Act defines ''endangered species'' as any species that is ''in danger of extinction throughout all or a significant portion of its range,'' and ''threatened species'' as any species that is ''likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range.'' The term ''species'' includes ''any subspecies of fish or wildlife or plants, and any distinct population segment [DPS] of any species of vertebrate fish or wildlife which interbreeds when mature.'' A species is ''endangered'' if it is in danger of extinction throughout all or a significant portion of its range (16 U.S.C. 1532(6)), and is ''threatened'' if it is likely to become endangered in the foreseeable future throughout all or a significant portion of its range (16 U.S.C. 1532 (20)). The word ''range'' refers to the range in which the species currently exists, and the ''foreseeable future'' is the period of time over which events or effects reasonably can or should be anticipated, or trends extrapolated.

Section 4 of the Act (16 U.S.C. 1533) and its implementing regulations (50 CFR part 424) set forth the procedures for determining whether a species meets the definition of ''endangered species'' or ''threatened species.'' The Act requires that we determine whether a species meets the definition of ''endangered species'' or ''threatened species'' because of any of the following factors: (A) The present or threatened destruction, modification, or curtailment of its habitat or range; (B) Overutilization for commercial, recreational, scientific, or educational purposes; (C) Disease or predation; (D) The inadequacy of existing regulatory mechanisms; or (E) Other natural or manmade factors affecting its continued existence.

We may delist a species according to 50 CFR 424.11(d) if the best available scientific and commercial data indicate that the species is neither endangered nor threatened.

Summary and Conclusion of Our Analysis

Prior to listing in the 1970s, wolves in the gray wolf entity had been reduced to about 1,000 individuals and extirpated from all of their range except northeastern Minnesota and Isle Royale, Michigan. The primary cause of the decline of wolves in the gray wolf entity was targeted elimination by humans. However, gray wolves are highly adaptable; their populations are remarkably resilient as long as prey availability, habitat, and regulation of human-caused mortality are adequate. Wolf populations can rapidly overcome severe disruptions, such as pervasive human-caused mortality or disease, once those disruptions are removed or reduced.

Provided the protections of the Act, the size of the gray wolf population increased to over four times that at the time of the initial gray wolf listings in the early 1970s, and more than triple that at the time of the 1978 reclassification (a figure which does not include the wolves currently found in the northern Rocky Mountains, which was part of those earlier listings, although not now part of the current gray wolf entity). The population's range has expanded outside of northeastern Minnesota to central and northwestern Minnesota, northern and central Wisconsin, and the entire Upper Peninsula of Michigan, and is in the early stages of expanding into western Washington, western Oregon, and northern California from areas outside the gray wolf entity. Wolves in the gray wolf entity now primarily exist as a large, stable to growing, metapopulation of about 4,400 individuals in the Great Lakes area and a small number of colonizing wolves in the west coast States that represent the expanding edge of a large metapopulation outside the gray wolf entity (in the northern Rocky Mountains and western Canada). Despite the substantial increase in gray wolf numbers and distribution within the gray wolf entity since 1978, the species currently occupies only a small portion of its historical range within the entity. This loss of historical range has resulted in a reduction of gray wolf individuals, populations, and suitable habitat (including adequate prey levels) within the gray wolf entity compared to historical levels.

To sustain populations over time, a species must have a sufficient number and distribution of healthy populations to withstand annual variation in its environment (resiliency); catastrophes (redundancy); and novel changes in its biological and physical environment (representation) (Shaffer and Stein 2000, pp. 308–311). A species with sufficient number and distribution of healthy populations is generally better able to adapt to future changes and to tolerate stressors (factors that cause a negative effect to a species or its habitat). Metapopulations are widely recognized as being more secure over the long-term than are several isolated populations that contain the same total number of packs and individuals (Service 1994, appendix 9). This is because adverse effects experienced by one of its subpopulations resulting from genetic drift, demographic shifts, and local environmental fluctuations can be countered by occasional influxes of individuals and their genetic diversity from other subpopulations in the metapopulation.

Changes resulting from loss of historical range for the gray wolf entity have increased the species' vulnerability within the entity to threats such as reduced genetic diversity and restricted gene flow (reduced representation), and all or most of its populations being affected by a catastrophic event (reduced redundancy). However, the large size of the Great Lakes metapopulation and the high quality of the habitat it occupies provide the gray wolf entity resiliency in the face of annual environmental fluctuations (for example, prey availability, pockets of disease outbreaks), periodic disturbances, and anthropogenic stressors. Further, while the subpopulations within the metapopulation are interconnected, they are broadly distributed across the northern portions of three States. This broad distribution of subpopulations within the Great Lakes area provides the gray wolf entity the redundancy to survive a catastrophic event because such an event is unlikely to simultaneously affect wolf subpopulations from Minnesota to Michigan. Lastly, the gray wolf is a generalist species that is highly adaptable to a variety of ecosystem types. A mixture of western gray wolves and eastern wolves in the Great Lakes area, in particular, may provide additional adaptive capacity. Thus, the gray wolf entity is likely to contain the representation needed to be able to adapt to future changes in the environment.

The metapopulation in the Great Lakes area contains sufficient resiliency, redundancy, and representation to sustain populations within the gray wolf entity over time. Therefore, we conclude that the relatively few wolves that occur outside the Great Lakes area within the gray wolf entity, including those in the west coast States and lone dispersers in other States, are not necessary for the recovered status of the gray wolf entity. However, the viability of the entity is further increased by wolves that occur outside the Great Lakes area. The large and expansive population of about 12,000–14,000 wolves in eastern Canada increases the resiliency of the gray wolf entity through its connectivity to the Great Lakes area metapopulation. Additionally, a large metapopulation of about 16,000 wolves outside the gray wolf entity in the northern Rocky Mountains and western Canada is expanding into the gray wolf entity in Oregon, Washington, and California (figure 2). Such a large and widely distributed metapopulation of wolves not only contributes to the resiliency, redundancy, and representation of gray wolves in the lower 48 United States, but also is likely to further increase the viability of the gray wolf entity because these wolves are colonizing the western portion of the gray wolf entity. With ongoing post-delisting management from States, further expansion of the metapopulation into the gray wolf entity is likely to continue in the west coast States, further increasing the viability of the gray wolf entity.

Wolves in the Great Lakes area now greatly exceed the recovery criteria for (1) a secure wolf population in Minnesota, and (2) a second population outside Minnesota and Isle Royale consisting of 100 wolves for 5 successive years. Therefore, based on the criteria set by the Eastern Wolf Recovery Team, the Great Lakes area now contains sufficient wolf numbers and distribution, threats have been alleviated, and the States and Tribes are committed to continued management such that the long-term survival of the wolf is ensured. Consequently, because we have identified no other regions of the gray wolf entity as necessary for recovery of wolves in this entity, we conclude that the Great Lakes area contains sufficient wolf numbers and distribution to ensure the long-term survival of the gray wolf entity.

The recovery of the gray wolf entity is attributable primarily to successful interagency cooperation in the management of human-caused mortality. Such mortality is the most significant issue to the long-term conservation status of wolves in the gray wolf entity. Therefore, managing this source of mortality remains the primary challenge to maintaining a recovered wolf population into the foreseeable future. Legal harvest and agency control to mitigate depredations on livestock will be the primary human-caused mortality factors that State agencies can manipulate to achieve management objectives once delisting occurs. Wolves in the Great Lakes area are well above Federal recovery requirements defined in the Eastern Timber Wolf Recovery Plan. As a result, we can expect to see some reduction in wolf populations in the Great Lakes areas as States begin to institute wolf-hunting seasons with the objective of slowing or reversing population growth while continuing to maintain wolf populations well above Federal recovery requirements in their respective States. Using an adaptive-management approach that adjusts harvest based on population estimates and trends, the initial objectives of States may be to lower wolf populations then manage for sustainable populations, similar to how States manage all other game species. For example, in 2013–2014, during a period when gray wolves were federally delisted in the Great Lakes area, Wisconsin reduced the State's wolf harvest quota by 43 percent in response to a reduced (compared to the previous year) estimated size of the wolf population. In the west coast States, wolf populations will likely be managed to ensure progress towards recovery objectives while also minimizing livestock losses caused by wolves.

Based on our analysis, we conclude that Minnesota, Wisconsin, and Michigan will maintain abundance and distribution of the Great Lakes wolf population above recovery levels for the foreseeable future, and that the threat of human-caused mortality has been sufficiently reduced. All three States have wolf-management laws, plans, and regulations that adequately regulate human-caused mortality. Each of the three States has committed to manage its wolf population at or above viable population levels, and we do not expect this commitment to change. Based on our review, we conclude that regulatory mechanisms in all three States are adequate to facilitate the maintenance of, and in no way threaten, the recovered status of wolves in the gray wolf entity if they are federally delisted. Adequate wolf-monitoring programs, as described in the State wolf-management plans, are likely to identify high mortality rates or low birth rates that warrant corrective action by the management agencies. Further, while relatively few wolves occur in the west coast portion of the gray wolf entity at this time, and State wolf-management plans for Washington, Oregon, and California do not yet include population management goals, these plans include recovery objectives intended to ensure the reestablishment of self-sustaining populations in these States.

Based on the biology of wolves and our analysis of threats, we conclude that, as long as wolf populations in the Great Lakes States are maintained at or above identified recovery levels, wolf biology (namely the species' reproductive capacity) and the availability of large, secure blocks of suitable habitat within the occupied areas will enable the maintenance of populations capable of withstanding all other foreseeable threats. Although much of the historical range of the gray wolf entity is no longer occupied, based on our analysis we find that the amount and distribution of occupied wolf habitat currently provides, and will continue to provide, large core areas that contain high-quality habitat of sufficient size and with sufficient prey to support a recovered wolf population. Our analysis of land management shows these areas, specifically Minnesota Wolf Management Zone A (Federal Wolf Management Zones 1–4), Wisconsin Wolf Zones 1, and the Upper Peninsula of Michigan will maintain their suitability into the foreseeable future. Therefore, we conclude that, despite the loss of large areas of historical range for the gray wolf entity, Minnesota, Wisconsin, and the Upper Peninsula of Michigan contain a sufficient amount of high-quality wolf habitat to support wolf populations into the future.

While disease and parasites can temporarily affect population stability, as long as populations are managed above recovery levels, these factors are not likely to threaten the viability of the wolf population in the gray wolf entity at any point in the foreseeable future. Climate change is also likely to remain an insignificant factor in population dynamics into the foreseeable future, due to the adaptability of the species. Finally, based on our analysis, we conclude that cumulative effects of threats, do not now, nor are likely to in the foreseeable future, threaten the viability of the gray wolf entity throughout the range of wolves in the gray wolf entity.

Determination of Status Throughout All of Its Range

We have carefully assessed the best scientific and commercial information available regarding the past, present, and future threats to the gray wolf entity

(the two *C. lupus* listed entities combined). We evaluated the status of, and assessed the factors likely to negatively affect, the gray wolf entity, including threats to the gray wolf entity identified at the time of reclassification. While wolves in the gray wolf entity currently occupy only a portion of wolf historical range, the best available information indicates that the gray wolf entity is recovered and is not now, nor likely in the foreseeable future, to be negatively affected by past, current, and potential future threats such that the entity is in danger of extinction.

Specifically, we have determined, based on the best available information, that human-caused mortality (Factor C); habitat and prey availability (Factor A); disease and parasites (Factor C); commercial, recreational, scientific, or educational uses (Factor B); climate change (Factor E); or other threats, singly or in combination, are not of sufficient imminence, intensity, or magnitude to indicate that wolves in the gray wolf entity are in danger of extinction or likely to become so within the foreseeable future throughout all of its range. We have also determined that ongoing effects of recovery efforts, which resulted in a significant expansion of the occupied range of and number of wolves in the gray wolf entity over the past decades, in conjunction with State, Tribal, and Federal agency wolf management and regulatory mechanisms that will be in place following delisting across the occupied range in the entity, will be adequate to ensure the conservation of wolves in the gray wolf entity. These activities will maintain an adequate prey base, preserve denning and rendezvous sites, monitor disease, restrict human take, and keep wolf populations well above the recovery criteria established in the Revised Recovery Plan (USFWS 1992, pp. 25–28).

The term ''foreseeable future'' describes the extent to which we can reasonably rely on the predictions about the future in making determinations about the future conservation status of the gray wolf entity. We conclude that it is reasonable to rely on the scientific studies and information assessing human-caused mortality; habitat and prey availability; the impacts of disease and parasites; commercial, recreational, scientific, or educational uses; gray wolf adaptability, including with respect to changing climate; recovery activities and regulatory mechanisms that will be in place following delisting; and predictions about how these may affect the gray wolf entity in making determinations about the gray wolf entity's future status. Therefore, after assessing the best available information, we have determined that the gray wolf entity is not in danger of extinction throughout all of its range nor is it likely to become so in the foreseeable future.

Because we determined that the gray wolf entity is not in danger of extinction or likely to become so in the foreseeable future throughout all of its range, we will consider whether there are any significant portions of its range that are in danger of extinction or likely to become so in the foreseeable future.

Determination of Status Throughout a Significant Portion of Its Range

Under the Act and our implementing regulations, a species warrants listing if it is in danger of extinction or likely to become so in the foreseeable future throughout all or a significant portion of its range (SPR). Having determined that the gray wolf entity is not in danger of extinction now or likely to become so in the foreseeable future throughout all of its range, we now consider whether it may be in danger of extinction or likely to become so in the foreseeable future in an SPR. The range of a species can theoretically be divided into portions in an infinite number of ways, so we first screen the potential portions of the species' range to determine if there are any portions that warrant further consideration. To do this we look for portions of the species' range for which there is substantial information indicating that: (1) The portion may be significant, and (2) the species may be in danger of extinction or likely to become so in the foreseeable future in that portion. A portion would not warrant further consideration if, for that portion, either one of these initial elements is not present. Therefore, if we determine that either of the initial elements is not present for a particular portion of the species' range, then further analysis is not necessary and the species does not warrant listing because of its status in that portion of its range.

We emphasize that the presence of both of the initial elements is not equivalent to a determination that the species should be listed—rather, it is a determination that a portion warrants further consideration. If we identify any portions that meet both of the initial elements, we conduct a more thorough analysis to determine whether in fact (1) the portion is significant and (2) the species is in danger of extinction or likely to become so in the foreseeable future in that portion. Confirmation that a geographic area does indeed meet one of these standards (either the portion is significant or the species is endangered or threatened in that portion of its range) does not create a presumption, prejudgment, or other determination as to whether the species is endangered or threatened in a significant portion of its range. Rather, we must then undertake a more detailed analysis of the other standard to make that determination. If the portion does indeed meet both standards, then the species is endangered or threatened in that significant portion of its range and warrants listing rangewide.

Thus, there can be two separate stages to the process of determining whether a species is threatened or endangered in a significant portion of its range: The stage of screening potential portions to identify if any portions warrant further consideration, and the stage of undertaking the more-detailed analysis of any portions that do warrant further consideration. At either stage, it may be more efficient for us to address the ''significance'' question first, or to address the ''status'' question first. Our selection of which question to address first for a particular portion depends on the biology of the species, its range, and the threats it faces. Regardless of which question we address first, if we reach a negative answer with respect to the first question that we address, we do not need to evaluate the second question for that portion of the species' range.

We note that a court has invalidated the USFWS and National Marine Fisheries Service (NMFS) definition of ''significant'' in their policy interpreting ''significant portion of its range,'' and issued a nationwide injunction prohibiting us from applying that definition (*Desert Survivors* v. *Dep't of the Interior,* No. 16–cv–01165–JCS (N.D. Cal. Aug. 24, 2018)). Therefore, in our analysis for the gray wolf, we apply ''significant'' in a way that is consistent with that court's opinion, and with other relevant case law. As USFWS and NMFS have not yet determined the best way to interpret ''significant'' in light of the decision in *Desert Survivors,* for the purposes of the analysis here, in determining whether any portions may warrant further consideration because they may be significant, we screen by looking for portions of the species' range that could be significant under any reasonable definition of ''significant'' that relates to the conservation of the gray wolf entity. To do this, we look for any portions that may be biologically important in terms of the resiliency, redundancy, or representation of the species. Our use of this standard for ''significant'' is limited to this analysis, and is not precedent for any future determinations.

To screen for the second prong, we consider whether there are any portions where the gray wolf entity may be in

danger of extinction or likely to become so in the foreseeable future. This may include consideration of whether the threats are geographically concentrated in any portion of the species' range at a biologically meaningful scale; if threats are not uniform throughout its range, this may be an indication that the species may warrant further evaluation to determine whether a different classification is appropriate. However, geographically concentrated threats do not necessarily indicate that a species may be in danger of extinction or likely to become so in the foreseeable future in that portion. Even if threats are concentrated in a portion, other factors could indicate that there is little chance those threats rise to a level such that the portion of the range may be in danger of extinction or likely to become so in the foreseeable future.

After reviewing the biology of the gray wolf entity and potential threats, we have not identified any portions of the gray wolf entity for which both (1) gray wolves may be in danger of extinction or likely to become so in the foreseeable future and (2) the portion may be significant. While some portions may be at increased threat from human-caused mortality or factors related to small numbers, we did not find that any of these portions may be significant. We provide examples below.

First, portions peripheral to the Great Lakes metapopulation that may contain lone dispersing wolves (*e.g.,* western Minnesota, Lower Peninsula of Michigan, eastern South Dakota) or few wolves (*e.g.,* Isle Royale), may be at greater threat from human caused mortality or due to factors related to small numbers of individuals. However, these portions are not biologically important to the gray wolf entity in terms of resiliency, redundancy, or representation. They are not important to the redundancy or resiliency of the gray wolf entity because they are not members of established breeding packs (lone dispersers) or are few in number and likely to remain as such (Isle Royale). They are also not important to the representation of the gray wolf entity because they lack genetic uniqueness relative to other wolves in the Great Lakes metapopulation—they are part of that metapopulation and are dispersing out from it. In addition, the gray wolf is a highly adaptable generalist species capable of long-distance dispersal. In other words, it possess the genetic diversity necessary to successfully colonize a broad range of habitat types and feed on a variety of prey species, and possess dispersal capabilities that facilitate colonization of those habitats in addition to gene flow among and between populations. Therefore, we find that these portions are not ''significant'' under any reasonable definition of that term because they are not biologically important to the gray wolf entity in terms of its resiliency, redundancy, or representation.

Second, State wolf-management zones in which post-delisting depredation control would be allowed under a broader set of circumstances than in core population zones, such as Minnesota Wolf Management Zone B (Federal Wolf Management Zone 5) or Wisconsin Wolf Management Zones 3 and 4, are not significant under any reasonable definition of ''significant.'' While these portions would likely experience higher levels of human-caused mortality if the gray wolf entity were delisted, these portions are not ''significant'' under any reasonable definition of that term. The wolves in these zones occur on the periphery of a large metapopulation (the Great Lakes metapopulation), in areas of limited habitat suitability, and do not contribute appreciably to (and are thus not biologically important to) the resiliency, redundancy, or representation of the gray wolf entity. In fact, the Recovery Plan for the Eastern Timber Wolf advises against restoration of wolves in State Zone B (Federal Zone 5) because the area is ''not suitable for wolves''. Wolves in these higher-intensity management zones are not important to the resiliency of the gray wolf entity because, even though they contain multiple established packs in addition to lone wolves, they comprise a small proportion of wolves in the Great Lakes metapopulation and, consequently, the gray wolf entity (Zone B contains approximately 15% of the Minnesota wolf population; Zones 3 and 4 contain about 6% of the Wisconsin wolf population). If wolves are delisted, a large metapopulation of wolves would still occur in the Great Lakes area outside these higher-intensity management zones in core zones of high-quality habitat and minimal human-caused mortality, providing the gray wolf entity the ability to withstand stochastic processes. These higher-intensity management zones are not important to the redundancy of the gray wolf entity because wolves in these zones represent a relatively small number and distribution of populations or packs in the Great Lakes metapopulation. The Great Lakes metapopulation is large and distributed across three states. Wolves in these higher-intensity management zones comprise a small proportion of wolves in, and occur on the periphery of, this metapopulation. If wolves are delisted, wolves would still occur in multiple populations distributed across tens of thousands of square miles in Minnesota, Wisconsin, and Michigan, providing the gray wolf entity the ability to withstand a catastrophic event. Thus, wolves in these higher-intensity management zones do not contribute meaningfully to the ability of the Great Lakes metapopulation, or gray wolf entity, to withstand catastrophic events. Wolves in these higher-intensity management zones are not important to the representation of the gray wolf entity because they originate from the Great Lakes and eastern Canada metapopulation (they are genetically similar to other wolves in the Great Lakes area of the gray wolf entity) and because gray wolves are a highly adaptable generalist species capable of long distance-dispersal. Therefore, we do not find that these portions may be significant under any reasonable definition of ''significant'' because they are not biologically important to the gray wolf entity in terms of its resiliency, redundancy, or representation.

Third, the west coast portion of the gray wolf entity, where wolves exist in small numbers in California, western Oregon, and western Washington, also is not biologically important to the gray wolf entity in terms of resiliency, redundancy, or representation. This portion is not important to the gray wolf entity in terms of resiliency or redundancy because wolves occur in small numbers in this portion and include only a few breeding pairs. Because these wolves represent the expanding front of a recovered and stable source metapopulation, and are therefore not an independent population within the gray wolf entity, the small number of wolves there do not contribute meaningfully to the ability of any population, in the NRM or Great Lakes area, to withstand stochastic events, nor to the entire entity's ability to withstand catastrophic events. This portion is also not important in terms of representation, because (1) gray wolves are a highly adaptable generalist carnivore capable of long-distance dispersal, and (2) the gray wolves in this area are an extension of a large metapopulation of wolves in the northern Rocky Mountains and western Canada (*i.e.,* they are not an isolated population with unique or markedly different genetic or phenotypic traits that is evolving separate from other wolf populations). Therefore, for the purpose of assessing the status of the gray wolf

entity under the Act, we do not find that this portion may be significant under any reasonable definition of ''significant'' because it is not biologically important to the gray wolf entity in terms of its resiliency, redundancy, or representation.

We conclude that there are no portions of the gray wolf entity for which both (1) gray wolves may be in danger of extinction or likely to become so in the foreseeable future and (2) the portion may be significant. As discussed above, portions that may be in danger of extinction or likely to become so in the foreseeable future are not significant under any reasonable definition of that term. Conversely, other portions that are or may be significant (*i.e.* the core areas of the Great Lakes metapopulation) are not in danger of extinction or likely to become so in the foreseeable future. Because we did not identify any portions of the gray wolf entity where threats may be concentrated and where the portion may be biologically important in terms of the resiliency, redundancy, or representation of the gray wolf entity, a more thorough analysis is not required. Therefore, we conclude that the gray wolf entity is not in danger of extinction or likely to become so in the foreseeable future within a significant portion of its range.

Proposed Determination

After a thorough review of all available information and an evaluation of the five factors specified in section 4(a)(1) of the Act, as well as consideration of the definitions of ''threatened species'' and ''endangered species'' contained in the Act and the reasons for delisting as specified in 50 CFR 424.11(d), we propose that removing the two entities of gray wolf (*Canis lupus*) from the List of Endangered and Threatened Wildlife (50 CFR 17.11) is appropriate. We have collectively evaluated the current and potential threats to the combined gray wolf entities, including those that result from past loss of historical range. Wolves have recovered in the combined entities as a result of the reduction of threats as described in the analysis of threats and are neither currently in danger of extinction, nor likely to become so in the foreseeable future, throughout all or a significant portion of their range.

Although substantial contraction of gray wolf historical range occurred within the combined entities since European settlement, the range of the gray wolf has expanded significantly since its original listing in 1978 and the impacts of lost historical range are no longer manifesting in a way that threatens the viability of the species. The causes of the previous contraction (for example, targeted extermination efforts), and the effects of that contraction (for example, reduced numbers of individuals and populations, and restricted gene flow), in addition to the effects of all other threats, have been ameliorated or reduced such that the combined entities no longer meet the Act's definitions of ''threatened species'' or ''endangered species.'' Further, we note that, while we combined the two *C. lupus* listed entities for our analysis, even if we had analyzed them separately, neither would meet the Act's definitions of ''threatened species'' or ''endangered species.'' Both of these two listed entities are either part of the same metapopulation or the expanding front of the recovered NRM metapopulation. Therefore, because the status of each of these two listed entities is influenced by its connectedness to the other, the status of each would be the same as if analyzed in combination. We also note that the Act allows us to list species, subspecies, or DPSs and that, because the two listed entities are not discrete and are therefore not DPSs, neither of the two listed entities constitute valid listable entities under the Act and should, therefore, be removed from the List.

Effects of This Rule

This proposal, if made final, would revise 50 CFR 17.11(h) by removing the two existing *C. lupus* listed entities from the Federal List of Endangered and Threatened Wildlife. This proposal, if made final, would also remove the special regulations under section 4(d) of the Act for wolves in Minnesota. These regulations currently are found at 50 CFR 17.40(d).

Critical habitat was designated for the gray wolf in 1978 (43 FR 9607, March 9, 1978). That rule (codified at 50 CFR 17.95(a)) identifies Isle Royale National Park, Michigan, and Minnesota Wolf Management Zones 1, 2, and 3, as delineated in 50 CFR 17.40(d)(1), as critical habitat. Wolf Management Zones 1, 2, and 3 comprise approximately 25,500 km^2 (9,845 mi^2) in northeastern and north-central Minnesota. This proposal, if made final, would remove the designation of critical habitat for gray wolves in Minnesota and on Isle Royale, Michigan.

Post-Delisting Monitoring

Section 4(g)(1) of the Act, added in the 1988 reauthorization, requires us to implement a system, in cooperation with the States, to monitor for not less than 5 years the status of all species that have recovered and been removed from the Lists of Endangered and Threatened Wildlife and Plants (50 CFR 17.11 and 17.12). The purpose of this post-delisting monitoring (PDM) is to verify that a species delisted due to recovery remains secure from risk of extinction after it no longer has the protections of the Act. To do this, PDM generally focuses on evaluating (1) demographic characteristics of the species, (2) threats to the species, and (3) implementation of legal and/or management commitments that have been identified as important in reducing threats to the species or maintaining threats at sufficiently low levels. We are to make prompt use of the emergency-listing authority under section 4(b)(7) of the Act to prevent a significant risk to the well-being of any recovered species. Section 4(g) of the Act explicitly requires cooperation with the States in development and implementation of PDM programs, but we remain responsible for compliance with section 4(g) and, therefore, must remain actively engaged in all phases of PDM. We also will seek active participation of other State and Federal agencies or Tribal governments that are expected to assume management authority for the species' conservation, should our proposed delisting be finalized. In some cases, agencies have already devoted significant resources toward wolf monitoring efforts. For example, the States of Washington, Oregon, and California have wolf-management plans that include monitoring strategies for wolves and wolf populations. Should such monitoring document significant declines, the Service will investigate the degree and importance of such declines.

We developed a PDM plan for wolves in the Great Lakes area with the assistance of the Eastern Wolf Recovery Team in 2008. That document remains applicable today as it focuses on monitoring wolves within the borders of Minnesota, Wisconsin, and the Upper Peninsula of Michigan and is available on our website (see **FOR FURTHER INFORMATION CONTACT**).

The PDM program will rely on a continuation of State monitoring activities, similar to those that have been conducted by Minnesota, Wisconsin, and Michigan DNR's in recent years, and Tribal monitoring. These activities will include both population monitoring and health monitoring of individual wolves. During the PDM period, the Service will conduct a review of the monitoring data and program. We will consider various relevant factors (including but not limited to mortality rates, population changes and rates of change, disease

occurrence, range expansion or contraction) to determine if the population of wolves within the borders of Minnesota, Wisconsin, and the Upper Peninsula of Michigan warrants expanded monitoring, additional research, consideration for re-listing as threatened or endangered, or emergency listing.

Minnesota, Wisconsin, and Michigan DNRs have monitored wolves for several decades with significant assistance from numerous partners, including the U.S. Forest Service, National Park Service, USDA–APHIS–Wildlife Services, Tribal natural resource agencies, and the Service. To maximize comparability of future PDM data with data obtained before delisting, all three State DNRs have committed to continue their previous wolf-population-monitoring methodology, or will make changes to that methodology only if those changes will not reduce the comparability of pre- and post-delisting data.

In addition to monitoring wolf population numbers and trends, the PDM program will evaluate post-delisting threats, in particular human-caused mortality, disease, and implementation of legal and management commitments. If at any time during the monitoring period we detect a substantial downward change in the populations or an increase in threats to the degree that population viability may be threatened, we will work with the States and Tribes to evaluate and change (intensify, extend, and/or otherwise improve) the monitoring methods, if appropriate, and/or consider re-listing the gray wolf, if warranted.

This PDM monitoring program will extend for 5 years beyond the effective delisting date of the two currently listed gray wolf entities. At the end of the 5-year period, we will conduct another review and post the results on our website. In addition to the above considerations, the review will determine whether the PDM program should be terminated or extended.

Required Determinations

Clarity of This Proposed Rule

We are required by Executive Orders 12866 and 12988 and by the Presidential Memorandum of June 1, 1998, to write all rules in plain language. This means that each rule we publish must:

(a) Be logically organized;

(b) Use the active voice to address readers directly;

(c) Use clear language rather than jargon;

(d) Be divided into short sections and sentences; and

(e) Use lists and tables wherever possible.

If you feel that we have not met these requirements, send us comments by one of the methods listed in **ADDRESSES**. To better help us revise the rule, your comments should be as specific as possible. For example, you should tell us the numbers of the sections or paragraphs that are unclearly written, which sections or sentences are too long, the sections where you feel lists or tables would be useful, etc.

National Environmental Policy Act

We determined that we do not need to prepare an environmental assessment or an environmental impact statement, as defined under the authority of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), in connection with regulations adopted pursuant to section 4(a) of the Act. We published a notice outlining our reasons for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244).

Government-to-Government Relationship With Tribes

In accordance with the President's memorandum of April 29, 1994, Government-to-Government Relations with Native American Tribal Governments (59 FR 22951), E.O. 13175, and the Department of the Interior's manual at 512 DM 2, we readily acknowledge our responsibility to communicate meaningfully with recognized Federal Tribes on a government-to-government basis. In accordance with Secretarial Order 3206 of June 5, 1997 (American Indian Tribal Rights, Federal-Tribal Trust Responsibilities, and the Endangered Species Act), we readily acknowledge our responsibilities to work directly with Tribes in developing programs for healthy ecosystems, to acknowledge that Tribal lands are not subject to the same controls as Federal public lands, to remain sensitive to Indian culture, and to make information available to Tribes. We have coordinated the proposed rule with the affected Tribes and, furthermore, throughout several years of development of earlier related rules and this proposed rule, we have endeavored to consult with Native American Tribes and Native American organizations in order to both (1) provide them with a complete understanding of the proposed changes, and (2) to understand their concerns with those changes. If requested, we will conduct additional consultations with Native American Tribes and multi-tribal organizations subsequent to any final rule in order to facilitate the transition to State and Tribal management of wolves within the Lower 48 United States outside of the NRM DPS where wolves are already under State and Tribal management. We will fully consider all of the comments on the proposed rule that are submitted by Tribes and Tribal members during the public comment period and will attempt to address those concerns, new data, and new information where appropriate.

References Cited

A complete list of all references cited in this proposed rule is available at *http://www.regulations.gov* under Docket No. FWS–HQ–ES–2018–0097 or upon request from the USFWS Headquarters Office (see **FOR FURTHER INFORMATION CONTACT**).

Authors

The primary authors of this proposed rule are staff members of the USFWS.

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Proposed Regulation Promulgation

Accordingly, we hereby propose to amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

PART 17—ENDANGERED AND THREATENED WILDLIFE AND PLANTS

■ 1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 1531–1544; 4201–4245; unless otherwise noted.

§ 17.11 [Amended]

■ 2. Amend § 17.11(h) by removing both entries for ''Wolf, gray *(Canis lupus)*'' under MAMMALS in the List of Endangered and Threatened Wildlife.

§ 17.40 [Amended]

■ 3. Amend § 17.40 by removing and reserving paragraph (d).

§ 17.95 [Amended]

■ 4. Amend § 17.95(a) by removing the critical habitat entry for ''Gray Wolf *(Canis lupus).*''

Dated: March 6, 2019.

Margaret E. Everson

Principal Deputy Director, U.S. Fish and Wildlife Service Exercising the Authority of the Director for the U.S. Fish and Wildlife Service.

[FR Doc. 2019–04420 Filed 3–14–19; 8:45 am]

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Part IV

The President

Presidential Determination No. 2019–11 of March 12, 2019—Presidential Determination Pursuant to Section 303 of the Defense Production Act of 1950, as amended

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Presidential Documents

Title 3—

The President

Presidential Determination No. 2019–11 of March 12, 2019

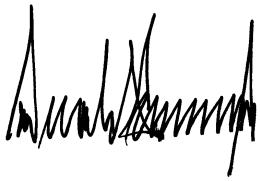
Presidential Determination Pursuant to Section 303 of the Defense Production Act of 1950, as amended

Memorandum for the Secretary of Defense

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 303 of the Defense Production Act of 1950, as amended (the ''Act'') (50 U.S.C. 4533), I hereby determine, pursuant to section 303(a)(5) of the Act, that the domestic production capability for AN/SSQ series sonobuoys is essential to the national defense.

Without Presidential action under section 303 of the Act, United States industry cannot reasonably be expected to provide the production capability for AN/SSQ series sonobuoys adequately and in a timely manner. Further, purchases, purchase commitments, or other action pursuant to section 303 of the Act are the most cost-effective, expedient, and practical alternative method for meeting the need for this critical capability.

You are authorized and directed to publish this memorandum in the *Federal Register.*



THE WHITE HOUSE,
Washington, March 12, 2019

[FR Doc. 2019–05100
Filed 3–14–19; 11:15 am]
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