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Presidential Documents

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The President

Proclamation 9849 of March 13, 2019

National Agriculture Day, 2019

By the President of the United States of America

A Proclamation

On National Agriculture Day, we acknowledge the immeasurable value farmers, ranchers, growers, producers, and foresters contribute to our Nation. America's agriculture families and communities lead the world in producing food, feed, fuel, and fiber. Today, we pay tribute to the men and women who expand opportunities for prosperity, economic development, and food security by cultivating the land across our country.

American agriculture strengthens our economy. Valued at more than $141 billion, our country's agriculture exports are critical to our Nation's job market, with every $1 billion in exports supporting approximately 8,400 American jobs. Counting for approximately 5.5 percent of our gross domestic product, our agriculture, food, and related industries are vital to our Nation's global economic success. Accordingly, my Administration is working to modernize and improve trade agreements to remove barriers and open foreign markets to goods grown and produced here in the United States. Last year, I made good on my promise to renegotiate the outdated and unbalanced North American Free Trade Agreement (NAFTA) with the signing of the United States-Mexico-Canada Agreement (USMCA). Once approved by the Congress, the USMCA will help farmers, especially dairy producers, have improved access to markets for their products by lifting unfair restrictions by Canada on American dairy, wheat, and wine producers.

We must continue to streamline our regulatory environment so that agricultural innovation can flourish and help our farmers, ranchers, and foresters meet the world's growing demand for food. My Administration, therefore, is streamlining regulatory policy for biotechnology, removing the red tape that is slowing down the approval of powerful new agriculture products. We are also committed to training and supporting the next generation of farmers and agriculture professionals through technical assistance programs so that they have the knowhow to harness the full potential of our Nation's abundant technological and national resources.

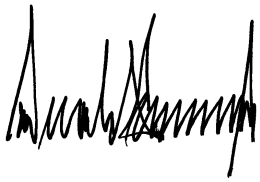
To help ensure the continued success, stability, and prosperity of our Nation's farmers, ranchers, and producers, I signed into law the Agriculture Improvement Act of 2018. This legislation bolsters farm safety-net programs, supports expanded markets for America's agricultural production, promotes active management of natural resources, and maintains strong rural development and research initiatives. In addition, a key provision in the law requires the Federal Communications Commission to work with the Department of Agriculture to boost broadband deployment and adoption in rural areas. This initiative will provide more farmers, ranchers, and rural communities access to next-generation digital technologies that enhance profitability and sustainability, greatly improving quality of life for all Americans.

The American farmer embodies the timeless virtues of our Nation: hard work, self-reliance, and dedication to family. On this National Agriculture Day, we express our gratitude to those who feed and clothe us, fuel our economy, and inspire us with their determination and perseverance.

NOW, THEREFORE, I, DONALD J. TRUMP, President of the United States of America, by virtue of the authority vested in me by the Constitution

and the laws of the United States, do hereby proclaim March 14, 2019, as National Agriculture Day. I encourage all Americans to observe this day by recognizing the preeminent role that agriculture plays in our daily lives, acknowledging agriculture's continuing importance to rural America and our country's economy, and expressing our deep appreciation of farmers, growers, ranchers, producers, national forest system stewards, private agricultural stewards, and those who work in the agriculture sector across the Nation.

IN WITNESS WHEREOF, I have hereunto set my hand this thirteenth day of March, in the year of our Lord two thousand nineteen, and of the Independence of the United States of America the two hundred and forty-third.



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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 929

[Doc. No. AMS–SC–18–0017; SC18–929–3 FR]

Cranberries Grown in the States of Massachusetts, Rhode Island, Connecticut, New Jersey, Wisconsin, Michigan, Minnesota, Oregon, Washington, and Long Island in the State of New York; Amendment to Marketing Order 929 and Referendum Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule amends Marketing Order No. 929, which regulates the handling of cranberries grown in the states of Massachusetts, Rhode Island, Connecticut, New Jersey, Wisconsin, Michigan, Minnesota, Oregon, Washington, and Long Island in the State of New York. The amendment, which was proposed by the Cranberry Marketing Committee (Committee), was approved by growers and processors in the referendum. This action authorizes the Committee to accept contributions from domestic sources for research and development activities authorized under the marketing order that would be free from any encumbrances as to their use by the donor.

DATES: This rule is effective March 20, 2019.

FOR FURTHER INFORMATION CONTACT: Geronimo Quinones, Marketing Specialist, 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: *Geronimo.Quinones@usda.gov.*

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

SUPPLEMENTARY INFORMATION: This action, pursuant to 5 U.S.C. 553, amends regulations issued to carry out a marketing order as defined in 7 CFR 900.2(j). This rule is issued under Marketing Order No. 929, as amended (7 CFR part 929), regulating the handling of cranberries grown in the States of Massachusetts, Rhode Island, Connecticut, New Jersey, Wisconsin, Michigan, Minnesota, Oregon, Washington, and Long Island in the State of New York. Part 929 (referred to as the ''Order'') is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.'' The Committee, which is responsible for the local administration of the Order, is comprised of cranberry growers operating within the production area and a public member. Section 608c(17) of the Act and the applicable rules of practice and procedure governing the formulation of marketing agreements and orders (7 CFR part 900) authorize amendment of the Order through this informal rulemaking action.

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

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

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with USDA a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing, USDA would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review USDA's ruling on the petition, provided an action is filed no later than 20 days after the date of entry of the ruling.

Section 1504 of the Food, Conservation, and Energy Act of 2008 (2008 Farm Bill) (Pub. L. 110–246) amended section 608c(17) of the Act, which in turn required the addition of supplemental rules of practice to 7 CFR part 900 (73 FR 49307; August 21, 2008). The amendment of section 8c(17) of the Act and additional supplemental rules of practice authorize the use of informal rulemaking (5 U.S.C. 553) to amend Federal fruit, vegetable, and nut marketing agreements and orders. USDA may use informal rulemaking to amend marketing orders based on the nature and complexity of the proposed amendments, the potential regulatory and economic impacts on affected entities, and any other relevant matters.

The Agricultural Marketing Service (AMS) considered these factors and has determined that amending the Order as proposed could appropriately be accomplished through informal rulemaking.

The proposed amendment was unanimously recommended by the Committee following deliberations at a public meeting held in August 2017. A proposed rule soliciting comments on the amendment was issued on April 19, 2018, and published in the **Federal Register** on April 27, 2018 (83 FR 18460). One comment was received. No changes to the proposed rule were made. A proposed rule and referendum order was then issued on September 7, 2018, and published in the **Federal Register** on September 14, 2018 (83 FR 46661). This document directed that a referendum among cranberry producers and processors be conducted October 29, 2018, through November 19, 2018, to determine whether they favored the

proposal. To become effective, the amendment had to be approved by two-thirds of producers voting or by those producers voting in the referendum who represented at least two-thirds of the volume of cranberries. In addition, the proposed amendment had to be approved by processors who had frozen or canned more than 50 percent of the volume of cranberries within the production area.

The amendment was favored by 88 percent of the growers voting and by 96 percent of the volume represented, the second of which exceeds the two-thirds volume requirement. In addition, the amendment was favored by the cranberry processors voting in the referendum. The processor vote met the requirement of being favored by processors of cranberries that processed more than 50 percent of the total volume of cranberries.

The amendment in this final rule authorizes the Committee to receive and expend voluntary contributions from domestic sources for research and development activities.

Final Regulatory Flexibility Analysis

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

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

There are approximately 1,100 cranberry growers in the regulated area and approximately 65 cranberry handlers subject to regulation under the Order. Small agricultural producers are defined by the Small Business Administration (SBA) as those having annual receipts of less than $750,000, and small agricultural service firms are defined as those whose annual receipts are less than $7,500,000 (13 CFR 121.201).

According to industry and Committee data, the average grower price for cranberries during the 2016–17 crop year was $23.50 per barrel, and total sales were around 9.5 million barrels. The value of cranberries that crop year totaled $223,250,000 ($23.50 per barrel multiplied by 9.5 million barrels). Taking the total value of production for cranberries and dividing it by the total number of cranberry growers (1,100) provides an average return per grower of $202,955. Based on USDA's Market News reports, the average free on board (f.o.b.) price for cranberries was around $30.00 per barrel. Multiplying the f.o.b. price by total utilization of 9.5 million barrels results in an estimated handler-level cranberry value of $285 million. Dividing this figure by the number of handlers (65) yields an estimated average annual handler receipt of $4.3 million, which is below the SBA threshold for small agricultural service firms. Therefore, the majority of growers and handlers of cranberries may be classified as small entities.

The amendment, which was unanimously recommended by the Committee at a public meeting in August 2017, will add a new section, § 929.43, Contributions, to the Order. This section will authorize the Committee to accept voluntary financial contributions. Such contributions may only be accepted from domestic sources and must be free from any encumbrances or restrictions on their use by the donor. When received, the Committee will retain complete control of their use. The use of contributed funds will be limited to funding program activities authorized under § 929.45, Research and development.

This amendment will have no direct economic effect on growers or handlers. This amendment authorizes the Committee to accept financial contributions. With the potential for additional funding, more research and promotional projects can be undertaken.

Therefore, it is anticipated that both small and large producer and handler businesses will benefit from this amendment.

Alternatives to this proposal, including making no changes at this time, were considered. However, the Committee believes it will be beneficial to authorize the acceptance of financial contributions from domestic sources, which will help support research and promotional activities.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Order's information collection requirements have been previously approved by OMB and assigned OMB No. 0581–0189, ''Fruit Crops.'' No changes in those requirements are necessary as a result of this action. Should any changes become necessary, they would be submitted to OMB for approval.

As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies. In addition, USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

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

The Committee's meeting was widely publicized throughout the cranberry production area. All interested persons were invited to attend the meeting and encouraged to participate in Committee deliberations on all issues. The Committee meeting was public, and all entities, both large and small, were encouraged to express their views on this proposal.

A proposed rule concerning this action was published in the **Federal Register** on April 27, 2018 (83 FR 18460). Copies of the proposed rule were mailed or sent via facsimile to all Committee members and cranberry handlers. The rule was made available through the internet by USDA and the Office of the Federal Register. A 60-day comment period ending June 26, 2018, was provided to allow interested persons to respond to the proposal. One comment was received. The comment submitted was not related to this proposal; therefore, no changes were made to the proposed amendment.

A proposed rule and referendum order was then issued on September 7, 2018, and published in the **Federal Register** on September 14, 2018 (83 FR 46661). This document directed that a referendum among cranberry producers and processors be conducted October 29, 2018, through November 19, 2018, to determine whether they favored the proposal. To become effective, the amendment had to be approved by two-thirds of producers voting or by those producers voting in the referendum who represented at least two-thirds of the volume of cranberries. In addition, the proposed amendment had to be approved by processors who had frozen or canned more than 50 percent of the volume of cranberries within the production area.

The amendment was favored by 88 percent of the growers voting and by 96 percent of the volume represented, the second of which exceeds the two-thirds volume requirement. In addition, the amendment was favored by the cranberry processors voting in the

referendum. The processor vote met the requirement of being favored by processors of cranberries that processed more than 50 percent of the total volume of cranberries.

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

Order Amending the Order Regulating the Handling of Cranberries Grown in the States of Massachusetts, Rhode Island, Connecticut, New Jersey, Wisconsin, Michigan, Minnesota, Oregon, Washington, and Long Island in the State of New York [1]

Findings and Determinations

(a) Findings and Determinations Upon the Basis of the Rulemaking Record.

The findings hereinafter set forth are supplementary to the findings and determinations which were previously made in connection with the issuance of the Order; and all said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

1. The Order, as amended, and as hereby proposed to be further amended, and all of the terms and conditions thereof, would tend to effectuate the declared policy of the Act;

2. The Order, as amended, and as hereby proposed to be further amended, regulates the handling of cranberries grown in the States of Massachusetts, Rhode Island, Connecticut, New Jersey, Wisconsin, Michigan, Minnesota, Oregon, Washington, and Long Island in the State of New York in the same manner as, and are applicable only to, persons in the respective classes of commercial and industrial activity specified in the Order;

3. The Order, as amended, and as hereby proposed to be further amended, is limited in application to the smallest regional production area which is practicable, consistent with carrying out the declared policy of the Act, and the issuance of several orders applicable to subdivisions of the production area would not effectively carry out the declared policy of the Act;

4. The Order, as amended, and as hereby proposed to be further amended, prescribes, insofar as practicable, such different terms applicable to different parts of the production area as are necessary to give due recognition to the differences in the production and marketing of cranberries produced in the production area; and

5. All handling of cranberries produced in the production area as defined in the Order is in the current of interstate or foreign commerce or directly burdens, obstructs, or affects such commerce.

(b) Additional Findings.

It is necessary and in the public interest to make this amendment effective not later than one day after publication in the **Federal Register**. A later effective date would unnecessarily delay implementation of the amendment. This amendment should be in place as soon as possible so that the Committee may accept financial contributions from sources not subject to the Order who have previously expressed interest in supporting research and development projects currently funded by the Order. Prior to this amendment, the Committee could only fund program operations, including research and development projects, from assessments. This amendment will now allow the Committee to accept financial contributions and potentially undertake more research and development projects. In view of the foregoing, it is hereby found and determined that good cause exists for making this amendment effective one day after publication in the **Federal Register** and that it would be contrary to the public interest to delay the effective date for 30 days after publication in the **Federal Register**. (Sec. 553(d), Administrative Procedure Act; 5 U.S.C. 551–559.)

(c) Determinations.

It is hereby determined that:

1. Handlers (excluding cooperative associations of producers who are not engaged in processing, distributing, or shipping of cranberries covered under the Order) who during the period September 1, 2016, through August 31, 2017, handled not less than 50 percent of the volume of such cranberries covered by said Order, as hereby amended, have signed an amended marketing agreement; and

2. The issuance of this amendatory order, amending the aforesaid Order, is favored or approved by at least two-thirds of the producers who participated in a referendum on the question of approval and who, during the period of September 1, 2016, through August 31, 2017, have been engaged within the production area in the production of such cranberries, such producers having also produced for market at least two-thirds of the volume of such commodity represented in the referendum; and is favored or approved by processors who had frozen or canned more than 50 percent of the volume of cranberries within the production area during the period September 1, 2016, through August 31, 2017.

3. The issuance of this amendatory order together with a signed marketing agreement advances the interests of growers of cranberries in the production area pursuant to the declared policy of the Act.

Order Relative to Handling

It is therefore ordered, that on and after the effective date hereof, all handling of cranberries grown in the States of Massachusetts, Rhode Island, Connecticut, New Jersey, Wisconsin, Michigan, Minnesota, Oregon, Washington, and Long Island in the State of New York shall be in conformity to, and in compliance with, the terms and conditions of the said Order as hereby proposed to be amended as follows:

The provisions of the proposed marketing order amending the Order contained in the proposed rule issued by the Administrator on April 19, 2018, and published in the **Federal Register** on April 27, 2018, (83 FR 18460) will be and are the terms and provisions of this order amending the Order and are set forth in full herein.

List of Subjects in 7 CFR Part 929

Cranberries, Marketing agreements, Reporting and recordkeeping requirements.

Dated: March 13, 2019.

Bruce Summers,

Administrator, Agricultural Marketing Service.

For the reasons set forth in the preamble, 7 CFR part 929 is amended as follows:

PART 929—CRANBERRIES GROWN IN THE STATES OF MASSACHUSETTS, RHODE ISLAND, CONNECTICUT, NEW JERSEY, WISCONSIN, MICHIGAN, MINNESOTA, OREGON, WASHINGTON, AND LONG ISLAND IN THE STATE OF NEW YORK

■ 1. The authority citation for 7 CFR part 929 continues to read as follows:

Authority: 7 U.S.C. 601–674.

■ 2. Add § 929.43 to read as follows:

[1] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

§ 929.43 Contributions.

The Committee may accept voluntary contributions to pay expenses incurred pursuant to § 929.45, Research and development. Such contributions may only be accepted if they are sourced from domestic contributors and are free from any encumbrances or restrictions on their use by the donor. The Cranberry Marketing Committee shall retain complete control of their use.

[FR Doc. 2019–05079 Filed 3–18–19; 8:45 am]

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DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Part 45

[Docket No. OCC–2019–0002]

RIN 1557–0061

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

12 CFR Part 237

[Docket No. R–1654]

RIN 7100–AF42

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 349

RIN 3064–AF00

FARM CREDIT ADMINISTRATION

12 CFR Part 624

RIN 3052–AD34

FEDERAL HOUSING FINANCE AGENCY

12 CFR Part 1221

RIN 2590–AB02

Margin and Capital Requirements for Covered Swap Entities

AGENCY: Office of the Comptroller of the Currency, Treasury (OCC); Board of Governors of the Federal Reserve System (Board); Federal Deposit Insurance Corporation (FDIC); Farm Credit Administration (FCA); and the Federal Housing Finance Agency (FHFA).

ACTION: Interim final rule and request for comment.

SUMMARY: The OCC, Board, FDIC, FCA, and FHFA (each an Agency and, collectively, the Agencies) are adopting and invite comment on an interim final rule amending the Agencies' regulations that require swap dealers and security-based swap dealers under the Agencies' respective jurisdictions to exchange margin with their counterparties for swaps that are not centrally cleared (Swap Margin Rule). The Swap Margin Rule takes effect under a phased compliance schedule stretching from 2016 through 2020, and the dealers covered by the rule continue to hold swaps in their portfolios that were entered into before the effective dates of the rule. Those swaps are grandfathered from the Swap Margin Rule's requirements until they expire according to their terms. There are currently financial services firms located within the United Kingdom (U.K.) that conduct swap dealing activities subject to the Swap Margin Rule. The U.K. has provided formal notice of its intention to withdraw from the European Union (E.U.) on March 29, 2019. If this transpires without a negotiated agreement between the U.K. and E.U., these entities located in the U.K. may not be authorized to provide full-scope financial services to swap counterparties located in the E.U. The Agencies' policy objective in developing the interim final rule is to address one aspect of the scenario likely to ensue, whereby entities located in the U.K. might transfer their existing swap portfolios that face counterparties located in the E.U. over to an affiliate or other related establishment located within the E.U. or the United States (U.S.). The Agencies seek to address industry concerns about the status of grandfathered swaps in this scenario, so the industry can focus on making preparations for swap transfers. These transfers, if carried out in accordance with the conditions of the interim final rule, will not trigger the application of the Swap Margin Rule to grandfathered swaps that were entered into before the compliance dates of the Swap Margin Rule.

DATES: The interim final rule is effective March 19, 2019. Comments should be received on or before April 18, 2019.

ADDRESSES: Interested parties are encouraged to submit written comments jointly to all of the Agencies. Commenters are encouraged to use the title ''Margin and Capital Requirements for Covered Swap Entities'' to facilitate the organization and distribution of comments among the Agencies.

OCC: You may submit comments to the OCC by any of the methods set forth below. Commenters are encouraged to submit comments through the Federal eRulemaking Portal or email, if possible. Please use the title ''Margin and Capital Requirements for Covered Swap Entities'' to facilitate the organization and distribution of the comments. You may submit comments by any of the following methods:

- *Federal eRulemaking Portal—''Regulations.gov'':* Go to *www.regulations.gov.* Enter ''Docket ID OCC–2019–0002'' in the Search Box and click ''Search.'' Click on ''Comment Now'' to submit public comments. Click on the ''Help'' tab on the *Regulations.gov* home page to get information on using *Regulations.gov*, including instructions for submitting public comments.
- *Email: regs.comments@occ.treas.gov.*
- *Mail:* Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, 400 7th Street SW, Suite 3E–218, Washington, DC 20219.
- *Hand Delivery/Courier:* 400 7th Street SW, Suite 3E–218, Washington, DC 20219.
- *Fax:* (571) 465–4326.

Instructions: You must include ''OCC'' as the agency name and ''Docket ID OCC–2019–0002'' in your comment. In general, the OCC will enter all comments received into the docket and publish the comments on the *Regulations.gov* website without change, including any business or personal information that you provide such as name and address information, email addresses, or phone numbers. Comments received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. Do not include any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

You may review comments and other related materials that pertain to this rulemaking action by any of the following methods:

- *Viewing Comments Electronically:* Go to *www.regulations.gov.* Enter ''Docket ID OCC–2019–0002'' in the Search box and click ''Search.'' Click on ''Open Docket Folder'' on the right side of the screen. Comments and supporting materials can be viewed and filtered by clicking on ''View all documents and comments in this docket'' and then using the filtering tools on the left side of the screen. Click on the ''Help'' tab on the *Regulations.gov* home page to get information on using *Regulations.gov*. The docket may be viewed after the close of the comment period in the same manner as during the comment period.
- *Viewing Comments Personally:* You may personally inspect comments at the OCC, 400 7th Street SW, Washington,

DC 20219. For security reasons, the OCC requires that visitors make an appointment to inspect comments. You may do so by calling (202) 649–6700 or, for persons who are deaf or hearing impaired, TTY, (202) 649–5597. Upon arrival, visitors will be required to present valid government-issued photo identification and submit to security screening in order to inspect comments.

Board: You may submit comments, identified by [Docket No. R–1654 and RIN No. 7100–AF42, by any of the following methods:

- *Agency website: http://www.federalreserve.gov.* Follow the instructions for submitting comments at *http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm.*
- *Email: regs.comments@federalreserve.gov.* Include the docket number and RIN number in the subject line of the message.
- *Fax:* (202) 452–3819 or (202) 452–3102.
- *Mail:* Address to Ann E. Misback, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW, Washington, DC 20551.

All public comments are available from the Board's website at *http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm* as submitted, unless modified for technical reasons or to remove personally identifiable information at the commenter's request. Accordingly, comments will not be edited to remove any identifying or contact information. Public comments may also be viewed electronically or in paper in Room 146, 1709 New York Avenue NW, Washington, DC 20006 between 9 a.m. and 5 p.m. on weekdays.

FDIC: You may submit comments, identified by RIN 3064–AF00, by any of the following methods:

- *Agency website: https://www.FDIC.gov/regulations/laws/federal.*
- *Mail:* Robert E. Feldman, Executive Secretary, Attention: Comments/Legal ESS, Federal Deposit Insurance Corporation, 550 17th Street, NW, Washington, DC 20429.
- *Hand Delivered/Courier:* The guard station at the rear of the 550 17th Street Building (located on F Street) on business days between 7:00 a.m. and 5:00 p.m.
- *Email: Comments@FDIC.gov.* Comments submitted must include ''FDIC'' and ''RIN 3064–AF00—Brexit Amendment: Margin and Capital Requirements for Covered Swap Entities.'' Comments received will be posted without change to *https://www.fdic.gov/regulations/laws/federal,* including any personal information provided.

FHFA: You may submit your written comments on the interim final rulemaking, identified by regulatory information number: RIN 2590–AB02, by any of the following methods:

- *Agency website: www.fhfa.gov/open-for-comment-or-input.*
- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments. If you submit your comment to the Federal eRulemaking Portal, please also send it by email to FHFA at *RegComments@fhfa.gov* to ensure timely receipt by the Agency. Please include ''RIN 2590–AB02'' in the subject line of the message.
- *Hand Delivery/Courier:* The hand delivery address is: Alfred M. Pollard, General Counsel, Attention: Comments/RIN 2590–AB02, Federal Housing Finance Agency, Constitution Center (OGC Eighth Floor), 400 7th St. SW, Washington, DC 20219. Deliver the package to the Seventh Street entrance Guard Desk, First Floor, on business days between 9:00 a.m. and 5:00 p.m.
- *U.S. Mail, United Parcel Service, Federal Express, or Other Mail Service:* The mailing address for comments is: Alfred M. Pollard, General Counsel, Attention: Comments/RIN 2590–AB02, Federal Housing Finance Agency, Constitution Center (OGC Eighth Floor), 400 7th St. SW, Washington, DC 20219.

All comments received by the deadline will be posted for public inspection without change, including any personal information you provide, such as your name, address, email address and telephone number on the FHFA website at *http://www.fhfa.gov.* Copies of all comments timely received will be available for public inspection and copying at the address above on government-business days between the hours of 10 a.m. and 3 p.m. To make an appointment to inspect comments please call the Office of General Counsel at (202) 649–3804.

FCA: We offer a variety of methods for you to submit your comments. For accuracy and efficiency reasons, commenters are encouraged to submit comments by email or through the FCA's website. As facsimiles (fax) are difficult for us to process and achieve compliance with section 508 of the Rehabilitation Act, we are no longer accepting comments submitted by fax. Regardless of the method you use, please do not submit your comments multiple times via different methods. You may submit comments by any of the following methods:

- *Email:* Send us an email at *reg-comm@fca.gov.*
- *FCA website: http://www.fca.gov.* Click inside the ''I want to . . .'' field near the top of the page; select ''comment on a pending regulation'' from the dropdown menu; and click ''Go.'' This takes you to an electronic public comment form.
- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Barry F. Mardock, Deputy Director, Office of Regulatory Policy, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102–5090.

You may review copies of all comments we receive at our office in McLean, Virginia or on our website at *http://www.fca.gov.* Once you are on the website, click inside the ''I want to . . .'' field near the top of the page; select ''find comments on a pending regulation'' from the dropdown menu; and click ''Go.'' This will take you to the Comment Letters page where you can select the regulation for which you would like to read the public comments. We will show your comments as submitted, including any supporting data provided, but for technical reasons we may omit items such as logos and special characters. Identifying information that you provide, such as phone numbers and addresses, will be publicly available. However, we will attempt to remove email addresses to help reduce internet spam.

FOR FURTHER INFORMATION CONTACT:

OCC: Chris McBride, Director for Market Risk, Treasury and Market Risk Policy, (202) 649–6402, or Allison Hester-Haddad, Counsel, Chief Counsel's Office, (202) 649–5490, for persons who are deaf or hearing impaired, TTY (202) 649–5597, Office of the Comptroller of the Currency, 400 7th Street SW, Washington, DC 20219.

Board: Constance Horsley, Deputy Associate Director, (202) 452–5239, Peter Clifford, Manager, (202) 785–6057, Lesley Chao, Lead Financial Institution Policy Analyst, (202) 974–7063, or John Feid, Principal Economist, (202) 452–2385, Division of Supervision and Regulation; Jason Shafer, Counsel, (202) 728–5811, or Justyna Bolter, Attorney, (202) 452–2686, Legal Division, Board of Governors of the Federal Reserve System, 20th and C Streets NW, Washington, DC 20551.

FDIC: Irina Leonova, Senior Policy Analyst, *ileonova@fdic.gov,* Capital Markets Branch, Division of Risk Management Supervision, (202) 898–3843; Thomas F. Hearn, Counsel, *thohearn@fdic.gov,* Legal Division, Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, DC 20429.

FCA: Jeremy R. Edelstein, Associate Director, Finance & Capital Market

Team, Timothy T. Nerdahl, Senior Policy Analyst, Office of Regulatory Policy, (703) 883–4414, TTY (703) 883–4056, or Richard A. Katz, Senior Counsel, Office of General Counsel, (703) 883–4020, TTY (703) 883–4056, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102–5090.

FHFA: Ron Sugarman, Principal Policy Analyst, Office of Policy Analysis and Research, (202) 649–3208, *Ron.Sugarman@fhfa.gov,* or James P. Jordan, Associate General Counsel, Office of General Counsel, (202) 649–3075, *James.Jordan@fhfa.gov,* Federal Housing Finance Agency, Constitution Center, 400 7th St., SW, Washington, DC 20219. The telephone number for the Telecommunications Device for the Hearing Impaired is (800) 877–8339.

SUPPLEMENTARY INFORMATION:

I. Background

The Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) [1] required the Agencies to adopt rules jointly that establish capital and margin requirements [2] for swap entities [3] that are prudentially regulated by one of the Agencies (covered swap entities).[4] These capital and margin requirements apply to swaps that are not cleared by a registered derivatives clearing organization or a registered clearing agency (non-cleared swaps). Swaps are certain types of financial derivatives, such as interest rate swaps and commodity swaps, that the Dodd-Frank Act generally characterized as ''swaps.'' [5] On November 30, 2015, the Agencies published the Swap Margin Rule to establish the minimum margin and capital requirements for the non-cleared swap portfolios of covered swap entities.[6]

The Agencies are issuing this interim final rule in connection with efforts to assist covered swap entities as they prepare for the event commonly described as ''Brexit.'' In particular, this interim final rule is intended to address a covered swap entity's ability to service its cross-border clients in the event that the U.K. withdraws from the E.U. without a Withdrawal Agreement.[7] Briefly stated, the interim final rule amends the Swap Margin Rule to make it clear that in such an event, financial entities located in the U.K. may transfer existing non-cleared swap portfolios over to a sister establishment of the U.K. financial entity that is located in an E.U. Member State or the U.S., without concerns of thereby triggering the application of the Swap Margin Rule's margin requirements to non-cleared swaps that had been grandfathered at the financial entity in the U.K.[8] The Agencies are also requesting public comment whether additional provisions or clarifications are needed to achieve the Agencies' objectives and provide greater clarity.

In issuing the Swap Margin Rule in 2015, the Agencies established an effective date of April 1, 2016, with a phased in compliance schedule for the initial and variation margin requirements.[9] On or after March 1, 2017, all covered swap entities were required to comply with the variation margin requirements for transactions with other swap entities and financial end user counterparties. By September 1, 2020, all covered swap entities will be required to comply with the initial margin requirements for non-cleared swaps with all financial end users with a material swaps exposure and with all swap entities.

The Swap Margin Rule's requirements generally apply only to a non-cleared swap entered into on or after the applicable compliance date.[10] A non-cleared swap entered into *prior to* an entity's applicable compliance date is essentially ''grandfathered'' by this regulatory provision, in that the non-cleared swap is generally not subject to the margin requirements in the Swap Margin Rule (legacy swap). However, the Agencies explained in the preamble of the Swap Margin Rule that a legacy swap that is later amended or novated on or after the applicable compliance date should be subject to the requirements of the Swap Margin Rule, in the interests of preventing evasion of the rule's margin requirements.[11]

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

[2] *See* 7 U.S.C. 6s(e)(3)(A); 15 U.S.C. 78o–10(e)(3)(A).

[3] *See* 7 U.S.C. 6s; 15 U.S.C. 78o–10. Sections 731 and 764 of the Dodd-Frank Act added a new section 4s to the Commodity Exchange Act of 1936, as amended, and a new section, section 15F, to the Securities Exchange Act of 1934, as amended, respectively, which require registration with the Commodity Futures Trading Commission (CFTC) of swap dealers and major swap participants and the U.S. Securities and Exchange Commission (SEC) of security-based swap dealers and major security-based swap participants (each a swap entity and, collectively, swap entities).

[4] Section 1a(39) of the Commodity Exchange Act of 1936, as amended, defines the term ''prudential regulator'' for purposes of the margin requirements applicable to swap dealers, major swap participants, security-based swap dealers and major security-based swap participants. The Board is the prudential regulator for any swap entity that is (i) a state-chartered bank that is a member of the Federal Reserve System, (ii) a state-chartered branch or agency of a foreign bank, (iii) a foreign bank which does not operate an insured branch, (iv) an organization operating under section 25A of the Federal Reserve Act of 1913, as amended, or having an agreement with the Board under section 25 of the Federal Reserve Act, or (v) a bank holding company, a foreign bank that is treated as a bank holding company under section 8(a) of the International Banking Act of 1978, as amended, or a savings and loan holding company (on or after the transfer date established under section 311 of the Dodd-Frank Act), or a subsidiary of such a company or foreign bank (other than a subsidiary for which the OCC or the FDIC is the prudential regulator or that is required to be registered with the CFTC or SEC as a swap dealer or major swap participant or a security-based swap dealer or major security-based swap participant, respectively). The OCC is the prudential regulator for any swap entity that is (i) a national bank, (ii) a federally chartered branch or agency of a foreign bank, or (iii) a Federal savings association. The FDIC is the prudential regulator for any swap entity that is (i) a State-chartered bank that is not a member of the Federal Reserve System, or (ii) a State savings association. The FCA is the prudential regulator for any swap entity that is an institution chartered under the Farm Credit Act of 1971, as amended. The FHFA is the prudential regulator for any swap entity that is a ''regulated entity'' under the Federal Housing Enterprises Financial Safety and Soundness Act of 1992, as amended (*i.e.,* the Federal National Mortgage Association and its affiliates, the Federal Home Loan Mortgage Corporation and its affiliates, and the Federal Home Loan Banks). *See* 7 U.S.C. 1a(39).

[5] A ''swap'' is defined in section 721 of the Dodd-Frank Act to include, among other things, an interest rate swap, commodity swap, equity swap, and credit default swap, and a security-based swap is defined in section 761 of the Dodd-Frank Act to include a swap based on a single security or loan or on a narrow-based security index. *See* 7 U.S.C. 1a(47); 15 U.S.C. 78c(a)(68). For the remainder of this preamble, the term ''non-cleared swaps'' refers to non-cleared swaps and non-cleared security-based swaps unless the context requires otherwise.

[6] 80 FR 74840 (November 30, 2015). The Swap Margin Rule was amended to implement a statutory exemption for non-cleared swaps entered into for hedging by commercial end users and small financial institutions, *see* 80 FR 74916 (November 30, 2015), and to address treatment of qualified financial contracts, *see* 83 FR 50805 (October 10, 2018).

[7] *See https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/759019/25_November_Agreement_on_the_withdrawal_of_the_United_Kingdom_of_Great_Britain_and_Northern_Ireland_from_the_European_Union_and_the_European_Atomic_Energy_Community.pdf* (visited February 5, 2019).

[8] In this **SUPPLEMENTARY INFORMATION**, the Agencies' references to an establishment of a financial entity is intended to be flexible as to whether the relationship of the financial entity to the business unit in the U.K. or elsewhere is due to an affiliation between separately-incorporated entities, branching of a single business entity in different jurisdictions, or some other form of business establishment through which an arm of the financial entity may be legally authorized to conduct business in that location.

[9] The applicable compliance date for a covered swap entity is based on the average daily aggregate notional amount of non-cleared swaps, foreign exchange forwards and foreign exchange swaps of the covered swap entity and its counterparty (accounting for their respective affiliates) for each business day in March, April and May of that year. The applicable compliance dates for initial margin requirements, and the corresponding average daily notional thresholds, are: September 1, 2016, $3 trillion; September 1, 2017, $2.25 trillion; September 1, 2018, $1.5 trillion; September 1, 2019, $0.75 trillion; and September 1, 2020, all swap entities and counterparties. *See* § __.1(e) of the Swap Margin Rule.

[10] *See* § __.1(e) of the Swap Margin Rule.

[11] 80 FR 74850–51. *See also,* 83 FR 50805 (October 10, 2018) (the Agencies added paragraph

The Swap Margin Rule has a broad territorial reach. It applies to swap dealers and security-based swap dealers that are registered with the CFTC or the SEC, respectively, and for which one of the Agencies is the prudential regulator, including, for example, certain foreign banks and foreign banking organizations, certain entities established abroad by U.S. banks, and certain foreign branches of U.S. banks. Typically, such firms are registered in the foreign jurisdiction in which they are located with the appropriate financial regulatory authorities, but the firms may also conduct swap activities with counterparties that have significant ties to the U.S. (or the dealer itself may be a branch of a U.S. bank) under circumstances that trigger dealer registration obligations with the CFTC or SEC. The Agencies included an exemption from the requirements of the Swap Margin Rule that applies whenever a foreign covered swap entity engages in a foreign non-cleared swap, but the rule's margin requirements still apply when the counterparty has certain connections to the U.S., such as when the counterparty is a foreign branch or office of an entity organized under U.S. federal or state law.[12]

As a result, there are instances in which a covered swap entity engages in non-cleared swap activities out of establishments in the U.K. that are subject to the requirements of the Swap Margin Rule. The same is true in certain instances for a covered swap entity engaging in those activities out of an establishment in another E.U. Member State.

Financial entities, including covered swap entities, in the U.K. face uncertainty about the applicable regulatory framework they will operate within after a U.K. withdrawal from the E.U. In many instances, these firms made a strategic decision decades ago to use a U.K. establishment as their base of operations to provide financial services to customers across the E.U., consistent with the E.U.'s system of cross-border authorizations to engage in regulated financial activities (known as ''passporting''). These firms have been mindful that one consequence of a U.K. exit from the E.U. absent a Withdrawal Agreement will be an inability of the firms to continue providing investment services in the E.U. under the current passporting regime. As a result, they might not be in a position to perform certain operations in relation to derivatives contracts they presently have with E.U. clients. In order to address this situation, these firms could transfer their derivatives to a related establishment in an E.U. Member State, which in turn would benefit from the passporting regime.

In addition, a covered swap entity that operates an establishment located outside the U.K. may be affected if the U.K. exits the E.U. without a Withdrawal Agreement. These covered swap entities may have entered into non-cleared swaps with financial entities located in the U.K. These U.K. counterparties of the covered swap entity may need to relocate certain operations, in order to continue providing financial services to their own customers in the E.U. Accordingly, a covered swap entity's counterparties with establishments in the U.K. may seek to transfer their non-cleared swaps to related establishments of their own in an E.U. Member State.[13]

In recent months, some financial entities have initiated processes under which a U.K. court sanctions a bulk transfer of their business, including derivatives, from the balance sheets of their U.K. establishments to a different location established by the dealer in another E.U. Member State.[14] For many months before that, industry stakeholders urged E.U. regulators to provide certainty that these kinds of portfolio transfers of swaps, entered into before the E.U.'s swap margin rule, will not become subject to E.U. swap margin rules by virtue of the legal changes associated with novations or other legal transfer methods. The European Supervisory Authorities (ESAs)[15] published a final report in November to make a limited exemption in the Commission Delegated Regulation under the European Market Infrastructure Regulation (EMIR) for bilateral margining requirements. The exemption would facilitate novations of these non-cleared swaps by ensuring that the regulatory characteristics of the original contracts are preserved.[16]

The scheduled date of the U.K. withdrawal is March 29, 2019. The Agencies believe it is appropriate to provide clarity, in order to facilitate the work of covered swap entities and their counterparties to transfer non-cleared swaps in response to a U.K. exit from the E.U. absent a Withdrawal Agreement, without thereby converting their legacy swaps into covered swaps subject to the Swap Margin Rule. The conditions of eligibility for the transfers are described in the next section of this **SUPPLEMENTARY INFORMATION**.

II. Description of the Interim Final Rule

As discussed above, legacy swaps are generally grandfathered from the Swap Margin Rule's requirements. More specifically, § __.1(e) states that covered swap entities shall comply with the Swap Margin Rule's minimum margin requirements for non-cleared swaps entered into on or after the compliance date that the rule establishes for separate classes of counterparties, depending on the size of their swaps portfolios.[17] However, in the preamble

(7) to § __.1(e), to clarify that a legacy swap would not lose its legacy status when the covered swap entity acceded to changes to the non-cleared swap as necessary to implement the QFC Receivership Stay regulations of the Board, the FDIC, and the OCC).

[12] *See* § __.9(a)–(c) of the Swap Margin Rule.

[13] *See* § __.9(a)–(c) of the As discussed later in this **SUPPLEMENTARY INFORMATION**, the Agencies have designed the interim final rule to recognize the need for flexibility on the part of financial entities as they attempt to work through the unanticipated effects of a U.K. exit from the E.U. absent a Withdrawal Agreement. For example, while this discussion illustrates an E.U. establishment of a covered swap entity taking on the swap portfolios of the entity's related covered swap entity in the U.K., a different financial entity's current structure might mean the U.K. portfolio is currently held by the financial entity's CFTC-registered non-bank subsidiary in the U.K., which is subject to the CFTC's non-cleared swap margin rule. As a general matter, the CFTC's rule and the Agencies' Swap Margin Rule impose the same requirements and feature the same grandfathering. But the portfolio transfer over to the financial entity's covered swap entity in the E.U. will, as a legal matter, subject them to the Agencies' swap margin rule once they are transferred. Or some financial firms that operate a covered swap entity through an establishment in the U.S. may make strategic decisions to refrain from opening a new E.U. establishment post-withdrawal, and thus need to pull their U.K. non-cleared swap portfolios back to their U.S. covered swap entity.

[14] *See, e.g.,* Barclays Bank plc Part VII Business transfer to Barclays Bank Ireland plc *(2019) EWHC 129 (Ch),* at *http://www.bailii.org/ew/cases/EWHC/Ch/2019/129.pdf* (visited January 29, 2019); ''Two Banks Begin Moving Swaps out of London, Pre-Brexit,'' *Risk.net* (November 30, 2018), at *https://www.risk.net/derivatives/6168671/banks-begin-moving-swaps-out-of-london-pre-brexit* (visited January 25, 2019); ''UBS Wins Approval for €32bn Brexit Swaps Transfer,'' *Risk.net* (February 6, 2019), at *https://www.risk.net/derivatives/6367306/ubs-wins-approval-for-eu32bn-brexit-swaps-transfer.*

[15] The three ESAs are the European Banking Authority (EBA), the European Securities and Markets Authority (ESMA) and the European Insurance and Occupational Pensions Authority (EIOPA).

[16] ESAs Propose to Amend Bilateral Margin Requirements to Assist Brexit Preparations for OTC Derivative Contracts (November 29, 2018), at *https://www.esma.europa.eu/press-news/esma-news/esas-propose-amend-bilateral-margin-requirements-assist-brexit-preparations-otc* (visited January 25, 2019).

[17] A legacy swap may still be subjected to margin requirements if the covered swap entity places the swap into a netting set that includes other non-cleared swaps that are entered into after the compliance date applicable to the covered swap entity. Swap Margin Rule § .__5(a)(3). Covered swap entities use netting sets to calculate their margin requirements for multiple swaps with a single counterparty on a portfolio basis, offsetting asset and liability exposures in the portfolio to one net exposure, subject to conditions contained in the Swap Margin Rule, including an enforceable legal

Continued

to the Swap Margin Rule, in response to comments, the Agencies declined to include regulatory language that would extend legacy swap treatment to a swap if it is subsequently novated or amended after the applicable compliance date, expressing concerns about evasion and implementation.[18]

In the interim final rule, the Agencies are amending § __.1 to add an additional provision, paragraph § __.1(h). This new provision is designed to preserve the status quo for legacy swaps for a covered swap entity in the event of a ''no-deal'' U.K. withdrawal, regardless of whether that covered swap entity is the swap counterparty directly involved in the transfer out of the U.K. or the counterparty on the other side of the swap.

A covered swap entity may, for example, use its establishment in the E.U. to take on non-cleared swap portfolios from its swap dealing affiliate in the U.K. In a different case, the covered swap entity's establishments in the E.U. and the U.K. may both be branches of the same swap dealing bank. Alternatively, there may be yet a different relationship due to the structure of the specific financial entity involved.

On the other hand, the covered swap entity may not move its operations in any way, but it may have existing portfolios of non-cleared swaps facing counterparties who are themselves relocating out of the U.K., to an affiliate, or a branch, or some other type of establishment outside of the U.K.

To be effective, the Agencies believe this interim final rule must cover the different scenarios that would trigger the need for a covered swap entity to participate in amending a non-cleared swap in order to ''relocate'' the swap, either on account of its own need to move non-cleared swaps out of the U.K., or its counterparty's need to do so.[19]

Accordingly, the text of the interim final rule is intended to be flexible as to the nature of the financial entity's establishment—covered swap entity or counterparty—maintained in the U.K., be it an entity organized under U.K. law, or a branch or other authorized office maintained in the U.K. by a firm that is legally organized elsewhere. This flexibility extends to the establishment to which the non-cleared swaps are transferred, so long as the transferring establishment in the U.K. is related to the receiving establishment outside the U.K.[20] The interim final rule is also intended to be flexible as to the manner in which that establishment in the U.K held its non-cleared swaps, either because the financial entity booked the swap at the U.K. establishment, or as determined by other business or account criteria the financial entity consistently employs in assigning a particular non-cleared swap to a particular establishment. [21]

To benefit from the treatment of this new legacy swap provision, the financial entity located in the U.K. must arrange to make the amendments to the non-cleared swap solely for the purpose of transferring the non-cleared swap to an affiliate or other related establishment that is located in an E.U. Member State (once the U.K. has withdrawn from the E.U., as further discussed below). This purpose test also contains a requirement that the transfer be made in connection with the U.K. entity's planning for the possibility that the U.K. might exit the E.U. without a Withdrawal Agreement, or the U.K. entity's response to such event.[22]

The interim final rule is intended to be flexible as to whether the relationship aspect of the purpose test is due to affiliation between separately-incorporated entities, branching of a single business entity in different jurisdictions, or some other form of business establishment through which an arm of the financial entity may be legally authorized to conduct business in the E.U. Member State. The Agencies have similarly included transfers to an affiliate, or branch or other authorized form of establishment, that the financial entity maintains in the U.S. to provide additional flexibility for financial entities with U.S. headquarters or other U.S. establishments.

For compliance purposes, the interim final rule makes one distinction between a transfer initiated by the financial entity standing as the covered swap entity at the completion of the transaction, versus a transfer initiated by the covered swap entity's counterparty. For the latter, the counterparty must make a representation to the covered swap entity that the counterparty carried out the swap in accordance with both elements of the purpose test.

The interim final rule is designed to permit such amendments as financial entities find necessary to relocate non-cleared swap portfolios out of the U.K. under the purpose test. These changes may be carried out using any of the methods typically employed for effecting non-cleared swap transfers, including industry protocols, contractual amendments, or contractual tear-up and replacement. To the extent they would otherwise trigger margin requirements, judicially-supervised changes that result in a non-cleared swap being booked at or held by a related establishment in the E.U., including by means of the court-sanctioned process available under Part VII of the U.K.'s Financial Services and Markets Act of 2000, are similarly within the scope of the interim final rule.

However, the Agencies do not believe the relief being provided for relocation purposes should be expansively applied to encompass economic changes to a legacy swap. Accordingly, the rule text makes legacy swap status unavailable if the amendments to a non-cleared swap modify the payment amount calculation methods, the maturity date, or the notional amount of the non-cleared swap. Thus, for example, if the day count convention of a non-cleared swap changes as a consequence of re-locating a non-cleared interest rate swap several time zones away from the U.K., the parties to the swap would not be changing the payment amount calculation methods. On the other hand, a change to one of the payment amount calculation economic factors (*e.g.,* an interest rate margin or base rate) would be a change outside the scope of the interim final rule and would trigger application of the margin requirements.

The Agencies also seek to establish a reasonable period of time for the necessary work to achieve the transfers to be performed. The interim final rule permits transfers for a period of one year after a U.K. withdrawal. The 1-year

netting agreement with the counterparty. *See* § __ .5(a).

[18] 80 FR 74850–51. The Agencies articulated concerns about the potential evasion of the Swap Margin Rule if legacy swaps could be materially amended and not become subject to the requirements of the Swap Margin Rule, as well as the Agencies' concerns about the difficulty of administrating a more complex regulatory approach that attempted to draw distinctions among the materiality of, or the intended purpose of, amendments to legacy swaps.

[19] The Agencies note that, regardless whether the covered swap entity is driving the swap relocation, or the covered swap entity's counterparty is driving the move, the covered swap entity will need to participate in whatever amendments or other legal steps are used to reflect the transfer of a bilateral non-cleared swap contract.

[20] See § __.1(h)(2)(ii), referring to non-cleared swaps an entity in the U.K. arranges to amend in order to transfer it to one of its affiliates, or a branch or other authorized form of establishment, located in an E.U. Member State.

[21] See § __.1(h)(2)(i), referring to non-cleared swap originally entered into before the relevant compliance date under the Swap Margin Rule, when one party to the swap booked it at, or otherwise held it at, an entity (including a branch or other authorized form of establishment) located in the U.K.

[22] See § __.1(h)(2)(ii), requiring the amendments to be for the sole purpose of transferring the non-cleared it to one of its affiliates, or a branch or other authorized form of establishment, located in an E.U. Member State, in connection with the entity's planning for or response to U.K. withdrawal.

period commences at the point at which the law of the European Union ceases to apply in the U.K. pursuant to Article 50(3) of the Treaty on European Union, without conclusion of a Withdrawal Agreement between the U.K. and E.U. pursuant to Article 50(2).[23] If the present withdrawal date is extended, and withdrawal later occurs at the end of that extension without a Withdrawal Agreement, the interim final rule's 1-year period would begin at that time. The Agencies contemplate that, if the withdrawal date is extended, financial entities may negotiate and document their desired transfers during the intervening period, under terms that delay consummation of any transfer until withdrawal takes place without an agreement and the interim final rule's substantive provisions are thereby triggered.

The Agencies believe that a provision enabling entities to transfer non-cleared swaps while retaining legacy status would be most effective if the timeframe allowed takes into account the timeframe under corresponding E.U. legislation. As noted above, the ESAs have submitted novation amendments for their margin rules in proposed form to the European Commission, but the relief that would be afforded thereby has not yet been finalized under the E.U. process.[24] The ESAs' draft Regulatory Technical Standards provides relief for one year after the amendments are finalized by official publication, after parliamentary approval. If the E.U. amendments are not yet finalized at the time of a U.K. withdrawal, affected financial entities may delay consummation of their non-cleared swap transfers until the ESAs' proposed amendments apply. The Agencies anticipate some transferring financial entities will operate under both sets of regulations and will accordingly seek to coordinate their transfer operations for compliance purposes under both sets of amendments. To facilitate this, the Agencies' interim final rule has a ''tacking'' provision that will extend the Agencies' 1-year period by the amount of any additional time available under the ESAs' 1-year period.

The interim final rule differs from the ESAs' proposed amendments to the extent that the legacy status protection afforded under the ESAs' approach is unavailable to derivatives entered into after the official, final publication of the amendments (which establishes the legal effective date of the rule). The Agencies have provided legacy status protection to any swap entered into before the applicable compliance date—of which there are two still upcoming, on September 1, 2019 and September 1, 2020—with no cutoff for swaps executed before those dates but after issuance of this interim final rule. The Agencies believe the marginal volume of additional legacy swaps that will be protected by the Agencies' approach is not likely to be substantial, and the additional time granted could facilitate a more organized transition for the affected counterparties.

III. Request for Comments

The Agencies request comment on all aspects of the interim final rule as well as on the following specific questions.

(1) The interim final rule permits amendments to non-cleared swaps in order to transfer swaps in response to the scenario in which the U.K. exits the E.U. in the absence of a Withdrawal Agreement. As explained above, the Agencies seek to encompass changes through a variety of methods, including industry protocols, contractual amendments, transfers permitted by judicial proceedings, and contractual tear-up and replacement. What, if any, additional clarification in the rule as to types of permissible amendments should the Agencies provide? What specifically should be added or clarified, and why is it necessary in order to achieve the Agencies' policy objectives in the context of a U.K. withdrawal from the E.U.?

(2) The relief provided by the interim final rule applies to the transfer of swaps from a financial entity's establishment in the U.K. to an establishment in the E.U. or the U.S. What, if any, other types of relief should be considered for swaps that are transferred from the E.U. to the U.K.? Please provide a description of the circumstances creating this need, including the frequency of its occurrence.

(3) The transfers that are accommodated by the interim final rule are available only between affiliates or other related establishments. The Agencies do not intend the relief provided by the interim final rule to provide an opportunity for financial entities to seek out a new dealer relationship and retain legacy swap treatment. However, the Agencies request comment on whether there may be financial entities that are unable to arrange a transfer of legacy swaps unless the transfer is to an unrelated entity outside the U.K. and are thus not covered under the terms of the interim final rule. Commenters should provide descriptions of the factual circumstances, including the frequency of its occurrence.

IV. Administrative Law Matters

A. Administrative Procedure Act

The Agencies are issuing the interim final rule without prior notice and the opportunity for public comment and without the 30-day delayed effective date ordinarily prescribed by the Administrative Procedure Act (APA).[25] Pursuant to section 553(b)(B) of the APA, general notice and the opportunity for public comment are not required with respect to a rulemaking when an ''agency for good cause finds (and incorporates the finding and a brief statement of reasons therefor in the rules issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.''[26]

As discussed above, the interim final rule addresses a potential impact of the scenario in which the U.K. exits from the E.U. in the absence of a Withdrawal Agreement. The U.K.'s exit is expected to occur on March 29, 2019. The interim final rule facilitates the ability of a financial entity with non-cleared swaps located in the U.K. to relocate existing swap portfolios over to affiliates or other related entities located within the E.U. or U.S., without the ''grandfathered'' legacy swaps in the portfolios becoming subject to the Swap Margin Rule. As such, the interim final rule benefits covered swap entities subject to the Swap Margin Rule by removing an impediment to the transfers and maintaining the status quo of a legacy swap. The interim final rule does not impose any requirements or mandatory burden on any covered swap entity.

The Agencies believe that the public interest is best served by making the interim final rule effective as soon as possible as a result of the expected timing of events in the U.K. The Agencies believe that issuing the interim final rule will provide the certainty necessary to facilitate the industry's efforts to begin arranging their transfers immediately upon the

[23] For an overview of the process by which an E.U. Member State may withdraw from the E.U., *see* the European Parliament Briefing, Article 50 TEU: Withdrawal of a Member State from the E.U. (February 2016), available at *http://www.europarl.europa.eu/RegData/etudes/BRIE/2016/577971/EPRS_BRI(2016)577971_EN.pdf* (visited January 25th, 2019).

[24] *See* Final Report on EMIR RTS on the novation of bilateral contracts not subject to bilateral margins, ESAs 2018 25 (November 27, 2018), at *https://eiopa.europa.eu/Publications/Reports/ESAs%202018%2025%20-%20Final%20Report%20-%20Bilateral%20margining%20%28novation%29.pdf* (visited January 25, 2019).

[25] 5 U.S.C. 553.

[26] 5 U.S.C. 553(b)(B).

U.K.'s withdrawal. In addition, the Agencies believe that providing a notice and comment period prior to issuance of the interim final rule is impracticable given the need for relief to begin on March 29, 2019. For these reasons, the Agencies find there is good cause consistent with the public interest to issue the interim final rule without advance notice and comment.[27]

The APA also requires a 30-day delayed effective date, except for (1) substantive rules which grant or recognize an exemption or relieve a restriction; (2) interpretative rules and statements of policy; or (3) as otherwise provided by the agency for good cause.[28] The Agencies find good cause to publish the interim final rule with an immediate effective date for the same reasons set forth above under the discussion of section 553(b)(B) of the APA.

While the Agencies believe there is good cause to issue the interim final rule without advance notice and comment and with an immediate effective date, the Agencies are requesting comment on all aspects of the interim final rule.

B. Solicitation of Comments on Use of Plain Language

Section 722 of the Gramm-Leach-Bliley Act, Public Law 106–102, sec. 722, 113 Stat. 1338, 1471 (Nov. 12, 1999), requires the OCC, Board and FDIC to use plain language in all proposed and final rules published after January 1, 2000. The OCC, Board and FDIC invite your comments on how to make this proposal easier to understand. For example:

- Have we organized the material to suit your needs? If not, how could this material be better organized?
- Are the requirements in the regulation clearly stated? If not, how could the regulation be more clearly stated?
- Does the regulation contain language or jargon that is not clear? If so, which language requires clarification?
- Would a different format (grouping and order of sections, use of headings, paragraphing) make the regulation easier to understand? If so, what changes to the format would make the regulation easier to understand?
- What else could we do to make the regulation easier to understand?

C. Paperwork Reduction Act Analysis

In accordance with the requirements of the Paperwork Reduction Act of 1995 (PRA), 44 U.S.C. 3501–3521, the Agencies may not conduct or sponsor, and a respondent is not required to respond to, an information collection unless it displays a currently-valid Office of Management and Budget (OMB) control number. The OCC, Board, and FDIC have reviewed this interim final rule and determined that it introduces a new collection of information pursuant to the PRA and the OCC and FDIC have submitted it to OMB for review under section 3507(d) of the PRA (44 U.S.C. 3507(d)) and section 1320.11 of the OMB's implementing regulations (5 CFR 1320). The Board has reviewed the information collection under its delegated authority. The OMB Control Numbers are: 1557–0251 (OCC), 3064–0204 (FDIC), and 7100–0364 (Board).[29] The FCA has determined the rule will not introduce any collection of information for Farm Credit System institutions because Farm Credit System institutions are Federally chartered instrumentalities of the United States and instrumentalities of the United States are specifically excepted from the definition of ''collection of information'' contained in 44 U.S.C. 3502(3). The FHFA has determined that the interim final rule does not contain any collection of information for which the agency must obtain clearance under the PRA.

Section __.1(h) specifies that transfers of legacy swaps initiated by a covered swap entity's counterparty require a representation to the covered swap entity that the counterparty carried out the swap in accordance with both elements of the purpose test[30] in order to remain outside the scope of the rule. The agencies estimate that the burden for this representation is *de minimis.* Therefore, they are estimating minimal burden for this requirement.

OCC:

Estimated Number of Respondents: 10.

Estimated Burden per Response: 1 hour.

Total Estimated Burden: 10 hour.

FRB:

Estimated Number of Respondents: 41.

Estimated Burden per Response: 1 hour.

Total Estimated Burden: 41 hours.

FDIC:

Estimated Number of Respondents: 1.[31]

Estimated Burden per Response: 1 hour.

Total Estimated Burden: 1 hour.

Comments are invited on:

a. Whether the collections of information are necessary for the proper performance of the agencies' functions, including whether the information has practical utility;

b. The accuracy or the estimate of the burden of the information collections, including the validity of the methodology and assumptions used;

c. Ways to enhance the quality, utility, and clarity of the information to be collected;

d. Ways to minimize the burden of the information collections on respondents, including through the use of automated collection techniques or other forms of information technology; and

e. Estimates of capital or startup costs and costs of operation, maintenance, and purchase of services to provide information.

All comments will become a matter of public record. Comments on aspects of this notice that may affect reporting, recordkeeping, or disclosure requirements and burden estimates should be sent to the addresses listed in the **ADDRESSES** section of this document. A copy of the comments may also be submitted to the OMB desk officer by mail to U.S. Office of Management and Budget, 725 17th Street NW, #10235, Washington, DC 20503; facsimile to (202) 395–6974; or email to *oira_submission@omb.eop.gov,* Attention, Federal Banking Agency Desk Officer.

D. Regulatory Flexibility Act Analysis

OCC: The Regulatory Flexibility Act (RFA) does not apply to a rulemaking when a general notice of proposed rulemaking is not required. 5 U.S.C. 603 and 604. As noted previously, the Agencies have determined for good cause that it is impracticable and contrary to the public interest to publish a general notice of proposed rulemaking for this joint final rule. Accordingly, the RFA's requirements relating to an initial and final regulatory flexibility analysis do not apply.

Board: The Regulatory Flexibility Act (RFA) requires an agency to consider whether the rules it proposes will have a significant economic impact on a substantial number of small entities. The RFA applies only to rules for which an agency publishes a general notice of

[27] 5 U.S.C. 553(b)(B); 553(d)(3).

[28] 5 U.S.C. 553(d).

[29] The agencies may be required to request new control numbers.

[30] The purpose test requires that the financial entity located in the U.K. arrange to make the amendments to the non-cleared swap solely for the purpose of transferring the non-cleared swap to an affiliate or other related establishment that is located in an E.U. Member State. This purpose test also contains a requirement that the transfer be made in connection with the U.K. entity's planning for the possibility that the U.K. might exit the E.U. without a Withdrawal Agreement, or the U.K. entity's response to such an event.

[31] The FDIC's estimates zero entities, but is estimating one here as a placeholder.

proposed rulemaking pursuant to 5 U.S.C. 553(b). As discussed previously, consistent with section 553(b)(B) of the APA, the Board has determined for good cause that general notice and opportunity for public comment is impracticable and contrary to the public's interest, and therefore the Board is not issuing a notice of proposed rulemaking. Accordingly, the Board has concluded that the RFA's requirements relating to initial and final regulatory flexibility analysis do not apply. Further, the Board notes that no small entities, as defined by the Small Business Administration's rules implementing the RFA, will be affected by the interim final rule.

FDIC: The Regulatory Flexibility Act (RFA)[32] requires an agency to consider whether the rules it proposes will have a significant economic impact on a substantial number of small entities.[33] The RFA applies only to rules for which an agency publishes a general notice of proposed rulemaking pursuant to 5 U.S.C. 553(b). As discussed in the joint interim final rule, consistent with section 553(b)(B) of the APA, the FDIC determined for good cause that general notice and opportunity for public comment was unnecessary, and therefore the FDIC did not issue a notice of proposed rulemaking. Accordingly, the FDIC has concluded that the RFA's requirements relating to initial and final regulatory flexibility analysis do not apply. Further, the FDIC supervises 3,533 depository institutions,[34] of which 2,726 are defined as small banking entities by the terms of the RFA.[35] This interim final rule directly applies to covered swap entities (which includes persons registered with the CFTC as swap dealers or major swap participants pursuant to the Commodity Exchange Act of 1936 and persons registered with the SEC as security-based swap dealers and major security-based swap participants under the Securities Exchange Act of 1934) that are subject to the requirements of the Swap Margin Rule. The FDIC has identified 104 swap dealers that, as of February 12, 2019, have registered as swap entities.[36] None of these institutions are supervised by the FDIC. Therefore, no small FDIC-supervised entities, as defined by the Small Business Administration's rules implementing the RFA, will be affected by the interim final rule.

FCA: Pursuant to section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the FCA hereby certifies that the interim final rule will not have a significant economic impact on a substantial number of small entities. Each of the banks in the Farm Credit System, considered together with its affiliated associations, has assets and annual income more than the amounts that would qualify them as small entities. Nor does the Federal Agricultural Mortgage Corporation meet the definition of a ''small entity.'' Therefore, Farm Credit System institutions are not ''small entities'' as defined in the Regulatory Flexibility Act.

FHFA: The RFA applies only to rules for which an agency is required to publish a general notice of proposed rulemaking pursuant to 5 U.S.C. 553(b). As discussed in the joint interim final rule, consistent with section 553(b)(B) of the APA, FHFA determined for good cause that general notice and opportunity for public comment was impracticable and contrary to the public interest, and therefore FHFA did not issue a notice of proposed rulemaking. Accordingly, FHFA has concluded that the RFA's requirements relating to initial and final regulatory flexibility analysis do not apply. This interim final rule directly applies to covered swap entities (which includes persons registered with the CFTC as swap dealers or major swap participants pursuant to the Commodity Exchange Act of 1936 and persons registered with the SEC as security-based swap dealers and major security-based swap participants under the Securities Exchange Act of 1934) that are subject to the requirements of the Swap Margin Rule. No FHFA-regulated entity is a covered swap entity, nor is any FHFA-regulated entity a small entity, as defined by the Small Business Administration's rules implementing the RFA. Therefore, no small FHFA-regulated entity will be affected by the interim final rule.

E. Unfunded Mandates Reform Act of 1995

Section 202 of the Unfunded Mandates Reform Act of 1995 (Unfunded Mandates Act), 2 U.S.C. 1532, requires the OCC to prepare a budgetary impact statement before promulgating any final rule for which a general notice of proposed rulemaking was published. As discussed above, the OCC has determined for good cause that the publication of a general notice of proposed rulemaking is impracticable and contrary to the public interest. Accordingly, this joint final rule is not subject to section 202 of the Unfunded Mandates Act.

F. Riegle Community Development and Regulatory Improvement Act of 1994

The Riegle Community Development and Regulatory Improvement Act of 1994 (RCDRIA) requires that each Federal banking agency, in determining the effective date and administrative compliance requirements for new regulations that impose additional reporting, disclosure, or other requirements on insured depository institutions, consider, consistent with principles of safety and soundness and the public interest, any administrative burdens that such regulations would place on depository institutions, including small depository institutions, and customers of depository institutions, as well as the benefits of such regulations. In addition, new regulations and amendments to regulations that impose additional reporting, disclosures, or other new requirements on insured depository institutions generally must take effect on the first day of a calendar quarter that begins on or after the date on which the regulations are published in final form.[37] Each Federal banking agency has determined that the final rule would not impose additional reporting, disclosure, or other requirements; therefore the requirements of the RCDRIA do not apply.

[32] 5 U.S.C. 601 *et seq.*

[33] The SBA defines a small banking organization as having $550 million or less in assets, where ''a financial institution's assets are determined by averaging the assets reported on its four quarterly financial statements for the preceding year.'' 13 CFR 121.201 n.8 (2018). ''SBA counts the receipts, employees, or other measure of size of the concern whose size is at issue and all of its domestic and foreign affiliates. . . .'' 13 CFR 121.103(a)(6) (2018). Following these regulations, the FDIC uses a covered entity's affiliated and acquired assets, averaged over the preceding four quarters, to determine whether the covered entity is ''small'' for the purposes of RFA.

[34] FDIC-supervised institutions are set forth in 12 U.S.C. 1813(q)(2).

[35] FDIC Call Report, September 30, 2018.

[36] In identifying the 104 entities referred to in the text, the Agencies used the list of swap dealers set forth, on February 12, 2019 (providing data as of February 12, 2019) at *https://www.cftc.gov/LawRegulation/DoddFrankAct/registerswapdealer.html.* While the CFTC has adopted a registration requirement for entities that meet the definition of major swap participants, as of February 12, 2019, the CFTC's website does not indicate that any entities are currently registered as major swap participants. Major swap participants are required to apply for registration through a filing with the National Futures Association. Accordingly, the Agencies reviewed the National Futures Association *https://www.nfa.futures.org/members/sd/index.html* to determine whether there were registered major swap participants. As of February 11, 2019, there were no Major Swaps Participants listed on this link. The SEC has not yet imposed a registration requirement for security-based swap dealers or major security-based swap participants.

[37] 12 U.S.C. 4802.

List of Subjects

12 CFR Part 45

Administrative practice and procedure, Capital, Margin requirements, National banks, Federal savings associations, Reporting and recordkeeping requirements, Risk.

12 CFR Part 237

Administrative practice and procedure, Banks, Banking, Foreign banking, Holding companies, Reporting and recordkeeping requirements, Swaps.

12 CFR Part 349

Administrative practice and procedure, Banks, Banking, Holding companies, Capital, Margin Requirements, Reporting and recordkeeping requirements, Savings associations, Risk, Swaps.

12 CFR Part 624

Accounting, Agriculture, Banks, Banking, Capital, Cooperatives, Credit, Margin requirements, Reporting and recordkeeping requirements, Risk, Rural areas, Swaps.

12 CFR Part 1221

Government-sponsored enterprises, Mortgages, Securities.

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Chapter I

Authority and Issuance

For the reasons set forth in the common preamble and under the authority of 12 U.S.C. 93a and 5412(b)(2)(B), the Office of the Comptroller of the Currency amends chapter I of Title 12, Code of Federal Regulations, as follows:

PART 45—MARGIN AND CAPITAL REQUIREMENTS FOR COVERED SWAP ENTITIES

■ 1. The authority citation for part 45 continues to read as follows:

Authority: 7 U.S.C. 6s(e), 12 U.S.C. 1 *et seq.,* 12 U.S.C. 93a, 161, 481, 1818, 3907, 3909, 5412(b)(2)(B), and 15 U.S.C. 78o–10(e).

■ 2. Section 45.1 is amended by adding paragraph (h) to read as follows:

§ 45.1 Authority, purpose, scope, exemptions and compliance dates.

* * * * *

(h) *Legacy swaps.* Covered swaps entities are required to comply with the requirements of this part for non-cleared swaps and non-cleared security-based swaps entered into on or after the relevant compliance dates for variation margin and for initial margin established in paragraph (e) of this section. Any non-cleared swap or non-cleared security-based swap entered into before such relevant date shall remain outside the scope of this part if changes are made to it as follows:

(1) [Reserved]

(2) The non-cleared swap or non-cleared security based swap was amended under the following conditions:

(i) The swap was originally entered into before the relevant compliance date established in paragraph (e) of this section and one party to the swap booked it at, or otherwise held it at, an entity (including a branch or other authorized form of establishment) located in the United Kingdom;

(ii) The entity in the United Kingdom subsequently arranged to amend the swap, solely for the purpose of transferring it to an affiliate, or a branch or other authorized form of establishment, located in any European Union member state or the United States, in connection with the entity's planning for or response to the event described in paragraph (h)(2)(iii) of this section, and the transferee is:

(A) A covered swap entity, or

(B) A covered swap entity's counterparty to the swap, and the counterparty represents to the covered swap entity that the counterparty performed the transfer in compliance with the requirements of paragraphs (h)(2)(i) and (ii) of this section;

(iii) The law of the European Union ceases to apply to the United Kingdom pursuant to Article 50(3) of the Treaty on European Union, without conclusion of a Withdrawal Agreement between the United Kingdom and the European Union pursuant to Article 50(2);

(iv) The amendments do not modify any of the following: The payment amount calculation methods, the maturity date, or the notional amount of the swap;

(v) The amendments cause the transfer to take effect on or after the date of the event described in paragraph (h)(2)(iii) of this section transpires; and

(iv) The amendments cause the transfer to take effect by the later of:

(A) The date that is one year after the date of the event described in paragraph (h)(2)(iii); or

(B) Such other date permitted by transitional provisions under Article 35 of Commission Delegated Regulation (E.U.) No. 2016/2251, as amended.

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

12 CFR Chapter II

Authority and Issuance

For the reasons set forth in the preamble, the Board of Governors of the Federal Reserve System amends 12 CFR part 237 to read as follows:

PART 237—SWAPS MARGIN AND SWAPS PUSH-OUT

■ 3. The authority citation for part 237 continues to read as follows:

Authority: 7 U.S.C. 6s(e), 15 U.S.C. 78o–10(e), 15 U.S.C. 8305, 12 U.S.C. 221 *et seq.,* 12 U.S.C. 343–350, 12 U.S.C. 1818, 12 U.S.C. 1841 *et seq.,* 12 U.S.C. 3101 *et seq.,* and 12 U.S.C. 1461 *et seq.*

Subpart A—Margin and Capital Requirements for Covered Swap Entities (Regulation KK)

■ 4. Section 237.1 is amended by adding paragraph (h) to read as follows:

§ 237.1 Authority, purpose, scope, exemptions and compliance dates.

* * * * *

(h) *Legacy swaps.* Covered swaps entities are required to comply with the requirements of this subpart for non-cleared swaps and non-cleared security-based swaps entered into on or after the relevant compliance dates for variation margin and for initial margin established in paragraph (e) of this section. Any non-cleared swap or non-cleared security-based swap entered into before such relevant date shall remain outside the scope of this subpart if changes are made to it as follows:

(1) [Reserved]

(2) The non-cleared swap or non-cleared security based swap was amended under the following conditions:

(i) The swap was originally entered into before the relevant compliance date established in paragraph (e) of this section and one party to the swap booked it at, or otherwise held it at, an entity (including a branch or other authorized form of establishment) located in the United Kingdom;

(ii) The entity in the United Kingdom subsequently arranged to amend the swap, solely for the purpose of transferring it to an affiliate, or a branch or other authorized form of establishment, located in any European Union member state or the United States, in connection with the entity's planning for or response to the event described in paragraph (h)(2)(iii) of this section, and the transferee is:

(A) A covered swap entity, or

(B) A covered swap entity's counterparty to the swap, and the counterparty represents to the covered swap entity that the counterparty performed the transfer in compliance with the requirements of paragraphs (h)(2)(i) and (ii) of this section;

(iii) The law of the European Union ceases to apply to the United Kingdom pursuant to Article 50(3) of the Treaty on European Union, without conclusion of a Withdrawal Agreement between the United Kingdom and the European Union pursuant to Article 50(2);

(iv) The amendments do not modify any of the following: The payment amount calculation methods, the maturity date, or the notional amount of the swap;

(v) The amendments cause the transfer to take effect on or after the date of the event described in paragraph (h)(2)(iii) of this section transpires; and

(vi) The amendments cause the transfer to take effect by the later of:

(A) The date that is one year after the date of the event described in paragraph (h)(2)(iii) of this section; or

(B) Such other date permitted by transitional provisions under Article 35 of Commission Delegated Regulation (E.U.) No. 2016/2251, as amended.

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Chapter III

Authority and Issuance

For the reasons set forth in the Supplementary Information section, the Federal Deposit Insurance Corporation amends 12 CFR chapter III as follows:

PART 349—DERIVATIVES

■ 5. The authority citation for subpart A of part 349 continues to read as follows:

Authority: 7 U.S.C. 6s(e), 15 U.S.C. 78o–10(e), and 12 U.S.C. 1818 and 12 U.S.C. 1819(a)(Tenth), 12 U.S.C. 1813(q), 1818, 1819, and 3108.

■ 6. Section 349.1 is amended by adding paragraph (h) to read as follows:

§ 349.1 Authority, purpose, scope, exemptions and compliance dates.

* * * * *

(h) *Legacy swaps.* Covered swaps entities are required to comply with the requirements of this part for non-cleared swaps and non-cleared security-based swaps entered into on or after the relevant compliance dates for variation margin and for initial margin established in paragraph (e) of this section. Any non-cleared swap or non-cleared security-based swap entered into before such relevant date shall remain outside the scope of this part if changes are made to the non-cleared swap or non-cleared security-based swap it as follows:

(1) [Reserved]

(2) The non-cleared swap or non-cleared security based swap was amended under the following conditions:

(i) The swap was originally entered into, booked at, or otherwise held at, an entity located in the United Kingdom before the relevant compliance date established in paragraph (e) of this section and one party to the swap booked it at, or otherwise held it at, an entity (including a branch or other authorized form of establishment) located in the United Kingdom;

(ii) The entity in the United Kingdom subsequently arranged to amend the swap, solely for the purpose of transferring it to an affiliate, or a branch or other authorized form of establishment, located in any European Union member state or the United States, in connection with the entity's planning for or response to the event described in paragraph (h)(2)(iii) of this section, and the transferee is:

(A) A covered swap entity, or

(B) A covered swap entity's counterparty to the swap, and the counterparty represents to the covered swap entity that the counterparty performed the transfer in compliance with the requirements of paragraphs (h)(2)(i) and (ii) of this section; subject to the following conditions:

(iii) The law of the European Union ceases to apply [to] the United Kingdom pursuant to Article 50(3) of the Treaty on European Union, without conclusion of a Withdrawal Agreement between the United Kingdom and the European Union pursuant to Article 50(2);

(iv) The amendments do not modify any of the following: The payment amount calculation methods, the maturity date, or the notional amount of the swap or non-cleared swap;

(v) The amendments cause the transfer to take effect on or after the date of the event described in paragraph (h)(2)(iii) of this section transpires; and

(vi) The amendments cause the transfer to take effect by the later of:

(A) The date that is one year after the date of the event described in paragraph (h)(2)(iii) of this section; or

(B) Such other date permitted by transitional provisions under Article 35 of Commission Delegated Regulation (E.U.) No. 2016/2251, as amended.

FARM CREDIT ADMINISTRATION

Authority and Issuance

For the reasons set forth in the preamble, the Farm Credit Administration amends chapter VI of title 12, Code of Federal Regulations, as follows:

PART 624—MARGIN AND CAPITAL REQUIREMENTS FOR COVERED SWAP ENTITIES

■ 1. The authority citation for part 624 continues to read as follows:

Authority: 7 U.S.C. 6s(e), 15 U.S.C. 78o–10(e), 12 U.S.C. 2154, 12 U.S.C. 2243, 12 U.S.C. 2252, 12 U.S.C. 2279bb–1.

■ 2. Section 624.1 is amended by adding paragraph (h) to read as follows:

§ 624.1 Authority, purpose, scope, exemptions and compliance dates.

* * * * *

(h) *Legacy swaps.* Covered swaps entities are required to comply with the requirements of this part for non-cleared swaps and non-cleared security-based swaps entered into on or after the relevant compliance dates for variation margin and for initial margin established in paragraph (e) of this section. Any non-cleared swap or non-cleared security-based swap entered into before such relevant date shall remain outside the scope of this part if changes are made to it as follows:

(1) [Reserved]

(2) The non-cleared swap or non-cleared security-based swap was amended under the following conditions:

(i) The swap was originally entered into before the relevant compliance date established in paragraph (e) of this section and one party to the swap booked it at, or otherwise held it at, an entity (including a branch or other authorized form of establishment) located in the United Kingdom;

(ii) The entity in the United Kingdom subsequently arranged to amend the swap, solely for the purpose of transferring it to an affiliate, or a branch or other authorized form of establishment, located in any European Union member state or the United States, in connection with the entity's planning for or response to the event described in paragraph (h)(2)(iii) of this section, and the transferee is:

(A) A covered swap entity, or

(B) A covered swap entity's counterparty to the swap, and the counterparty represents to the covered swap entity that the counterparty performed the transfer in compliance with the requirements of paragraphs (h)(2)(i) and (ii) of this section;

(iii) The law of the European Union ceases to apply to the United Kingdom pursuant to Article 50(3) of the Treaty on European Union, without conclusion of a Withdrawal Agreement between the

United Kingdom and the European Union pursuant to Article 50(2);

(iv) The amendments do not modify any of the following: The payment amount calculation methods, the maturity date, or the notional amount of the swap;

(v) The amendments cause the transfer to take effect on or after the date of the event described in paragraph (h)(2)(iii) of this section transpires; and

(iv) The amendments cause the transfer to take effect by the later of:

(A) The date that is one year after the date of the event described in paragraph (h)(2)(iii) of this section; or

(B) Such other date permitted by transitional provisions under Article 35 of Commission Delegated Regulation (E.U.) No. 2016/2251, as amended.

FEDERAL HOUSING FINANCE AGENCY

Authority and Issuance

For the reasons set forth in the preamble, the Federal Housing Finance Agency amends chapter XII of title 12, Code of Federal Regulations, as follows:

PART 1221—MARGIN AND CAPITAL REQUIREMENTS FOR COVERED SWAP ENTITIES

■ 1. The authority citation for part 1221 continues to read as follows:

Authority: 7 U.S.C. 6s(e), 15 U.S.C. 78o–10(e), 12 U.S.C. 4513, and 12 U.S.C. 4526(a).

■ 2. Section 1221.1 is amended by adding paragraph (h) to read as follows:

§ 1221.1 Authority, purpose, scope, exemptions, and compliance dates.

* * * * *

(h) *Legacy swaps.* Covered swaps entities are required to comply with the requirements of this part for non-cleared swaps and non-cleared security-based swaps entered into on or after the relevant compliance dates for variation margin and for initial margin established in paragraph (e) of this section. Any non-cleared swap or non-cleared security-based swap entered into before such relevant date shall remain outside the scope of this part if changes are made to it as follows:

(1) [Reserved]

(2) The non-cleared swap or non-cleared security based swap was amended under the following conditions:

(i) The swap was originally entered into before the relevant compliance date established in paragraph (e) of this section and one party to the swap booked it at, or otherwise held it at, an entity (including a branch or other authorized form of establishment) located in the United Kingdom;

(ii) The entity in the United Kingdom subsequently arranged to amend the swap, solely for the purpose of transferring it to an affiliate, or a branch or other authorized form of establishment, located in any European Union member state or the United States, in connection with the entity's planning for or response to the event described in paragraph (h)(2)(iii) of this section, and the transferee is:

(A) A covered swap entity, or

(B) A covered swap entity's counterparty to the swap, and the counterparty represents to the covered swap entity that the counterparty performed the transfer in compliance with the requirements of paragraphs (h)(2)(i) and (ii) of this section;

(iii) The law of the European Union ceases to apply to the United Kingdom pursuant to Article 50(3) of the Treaty on European Union, without conclusion of a Withdrawal Agreement between the United Kingdom and the European Union pursuant to Article 50(2);

(iv) The amendments do not modify any of the following: The payment amount calculation methods, the maturity date, or the notional amount of the swap;

(v) The amendments cause the transfer to take effect on or after the date of the event described in paragraph (h)(2)(iii) of this section transpires; and

(vi) The amendments cause the transfer to take effect by the later of:

(A) The date that is one year after the date of the event described in paragraph (h)(2)(iii) of this section; or

(B) Such other date permitted by transitional provisions under Article 35 of Commission Delegated Regulation (E.U.) No. 2016/2251, as amended.

Dated: March 7, 2019.

Joseph M. Otting,

Comptroller of the Currency.

By order of the Board of Governors of the Federal Reserve System, March 12, 2019.

Margaret McCloskey Shanks,

Deputy Secretary of the Board.

Dated at Washington, DC, on March 8, 2019.

Federal Deposit Insurance Corporation.

Valerie J. Best,

Assistant Executive Secretary.

By order of the Board of the Farm Credit Administration.

Dated at McLean, VA, this 5th day of March 2019.

Dale L. Aultman,

Secretary.

Dated: March 7, 2019.

Joseph M. Otting,

Acting Director, Federal Housing Finance Agency.

[FR Doc. 2019–05012 Filed 3–18–19; 8:45 am]

BILLING CODE 4810–33–P; 6210–01–P, 6714–01–P, 8070–01–P, 6705–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 91

[Docket No.: FAA–2011–0246; Amdt. No. 91–321D]

RIN 2120–AL40

Amendment of the Prohibition Against Certain Flights in the Tripoli Flight Information Region (FIR) (HLLL)

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: This action extends, with modifications to reflect changed conditions in Libya, the Special Federal Aviation Regulation (SFAR) prohibiting certain flight operations in the Tripoli Flight Information Region (FIR) (HLLL) by all: United States (U.S.) air carriers; U.S. commercial operators; persons exercising the privileges of an airman certificate issued by the FAA, except when such persons are operating U.S.-registered aircraft for a foreign air carrier; and operators of U.S.-registered civil aircraft, except where the operator of such aircraft is a foreign air carrier. This action extends the prohibition of U.S. civil flight operations in the Tripoli FIR (HLLL) at altitudes below Flight Level (FL) 300 to safeguard against continuing hazards to U.S. civil aviation. However, this action also reduces the scope of the prohibition, permitting U.S. civil aviation overflights of the Tripoli FIR (HLLL) at altitudes at and above FL300 to resume, due to the reduced risk to U.S. civil aviation operations at those altitudes. The FAA also republishes, with minor revisions, the approval process and exemption information for this SFAR, consistent with other recently published flight prohibition SFARs; makes a minor editorial change to the title of the rule; and makes other minor revisions for consistency with other recently published flight prohibition SFARs.

DATES: This final rule is effective on March 19, 2019.

FOR FURTHER INFORMATION CONTACT: Dale E. Roberts, Air Transportation Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone 202–267–8166; email *dale.e.roberts@faa.gov.*

SUPPLEMENTARY INFORMATION:

I. Executive Summary

This action extends, with modifications to reflect changed conditions in Libya, the prohibition against certain U.S. civil flight operations in the Tripoli FIR (HLLL) by all: U.S. air carriers; U.S. commercial operators; persons exercising the privileges of an airman certificate issued by the FAA, except when such persons are operating U.S.-registered aircraft for a foreign air carrier; and operators of U.S.-registered civil aircraft, except where the operator of such aircraft is a foreign air carrier, from March 20, 2019, to March 20, 2021. The FAA finds that security and safety conditions in the Tripoli FIR (HLLL) at altitudes at or above FL300 support allowing U.S. civil overflight operations at cruising altitudes at or above FL300 to resume. Extremist/militant elements operating in Libya are believed not to possess anti-aircraft weapons capable of threatening U.S. civil aviation operations at or above FL260, and there is a lower risk of civil-military deconfliction concerns at cruising altitudes at or above FL300. However, the FAA finds the extension of the prohibition on U.S. civil aviation operations in the Tripoli FIR (HLLL) at altitudes below FL300 is necessary to safeguard against continuing hazards to U.S. civil aviation associated with ongoing political instability, fighting involving various militia/extremist/militant elements, and military activity by foreign sponsors supporting various elements operating in Libya.

The FAA also republishes, with minor revisions, the approval process and exemption information for this SFAR, consistent with other recently published flight prohibition SFARs; makes a minor editorial change to the title of the rule; and makes other minor revisions for consistency with other recently published flight prohibition SFARs.

II. Legal Authority and Good Cause

A. Legal Authority

The FAA is responsible for the safety of flight in the U.S. and for the safety of U.S. civil operators, U.S.-registered civil aircraft, and U.S.-certificated airmen throughout the world. The FAA Administrator's authority to issue rules on aviation safety is found in title 49, U.S. Code, Subtitle I, sections 106(f) and (g). Subtitle VII of title 49, Aviation Programs, describes in more detail the scope of the agency's authority. Section 40101(d)(1) provides that the Administrator shall consider in the public interest, among other matters, assigning, maintaining, and enhancing safety and security as the highest priorities in air commerce. Section 40105(b)(1)(A) requires the Administrator to exercise this authority consistently with the obligations of the U.S. Government under international agreements.

This rulemaking is promulgated under the authority described in Subtitle VII, Part A, subpart III, section 44701, General requirements. Under that section, the FAA is charged broadly with promoting safe flight of civil aircraft in air commerce by prescribing, among other things, regulations and minimum standards for practices, methods, and procedures that the Administrator finds necessary for safety in air commerce and national security.

This regulation is within the scope of FAA's authority because it continues to prohibit the persons described in paragraph (a) of SFAR No. 112, § 91.1603, from conducting flight operations in the Tripoli FIR (HLLL) at altitudes below FL300 due to the continuing hazards to the safety of U.S. civil flight operations at those altitudes, as described in the preamble to this final rule.

B. Good Cause for Immediate Adoption

Section 553(b)(3)(B) of title 5, U.S. Code, authorizes agencies to dispense with notice and comment procedures for rules when the agency for ''good cause'' finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Section 553(d) also authorizes agencies to forgo the delay in the effective date of the final rule for good cause found and published with the rule. In this instance, the FAA finds good cause to forgo notice and comment because notice and comment would be impracticable and contrary to the public interest. In addition, it is contrary to the public interest to delay the effective date of this SFAR.

The risk environment for U.S. civil aviation in airspace managed by other countries with respect to safety of flight risks posed by weapons capable of targeting, or otherwise negatively affecting, U.S. civil aviation, as well as other hazards to U.S. civil aviation associated with fighting, extremist/militant activity, or heightened tensions, is fluid. This fluidity and the need for the FAA to rely upon classified information in assessing these risks make seeking notice and comment impracticable and contrary to the public interest. With respect to the impracticability of notice and comment procedures, the potential for rapid changes in the risks to U.S. civil aviation significantly limits how far in advance of a new or amended flight prohibition the FAA can usefully assess the risk environment. The fluid nature of these risks also means that the FAA's original proposal could become unsuitable for minimizing the hazards to U.S. civil aviation in the affected airspace during or after any public notice and comment process. Furthermore, to the extent that these rules and any amendments to them are based upon classified information, the FAA is not legally permitted to share such information with the general public, who cannot meaningfully comment on information to which they are not legally allowed access.

Under these conditions, public interest considerations also favor not seeking notice and comment for these rules and any amendments to them. While there is a public interest in having an opportunity for the public to comment on agency action, there is a greater public interest in having the FAA's flight prohibitions, and any amendments thereto, reflect the agency's most current understanding of the risk environment for U.S. civil aviation. This allows the FAA to appropriately protect the safety of U.S. operators' aircraft and the lives of their passengers and crews without over-restricting U.S. operators' routing options. The FAA has identified an ongoing need to maintain the flight prohibition for U.S. civil aviation operations at altitudes below FL300 in the Tripoli FIR (HLLL) due to continued safety-of-flight hazards associated with ongoing political instability, fighting involving various militia/extremist/militant elements, and military activity by foreign sponsors supporting various elements operating in Libya. These hazards, which are further described in the preamble to this rule, require that the FAA's flight prohibition for U.S. civil aviation operations be continued without interruption for altitudes below FL300. For altitudes at or above FL300, any delay in the effective date of the rule would continue a prohibition on U.S. civil overflights at those altitudes that the FAA has determined is no longer needed for the safety of U.S. civil aviation and would thus unnecessarily restrict U.S. operators' routing options at those altitudes.

For these reasons, the FAA finds good cause to forgo notice and comment and

any delay in the effective date for this rule.

III. Background

As a result of safety and national security concerns regarding flight operations in the Tripoli FIR (HLLL), the FAA issued SFAR No. 112, § 91.1603, in March 2011,[1] prohibiting all: U.S. air carriers; U.S. commercial operators; persons exercising the privileges of an airman certificate issued by the FAA, except when such persons were operating U.S.-registered aircraft for a foreign air carrier; and operators of U.S.-registered civil aircraft, except operators of such aircraft that were foreign air carriers, from conducting flight operations in the Tripoli FIR (HLLL), except as provided in paragraphs (c) and (d) of the regulation.

When SFAR No. 112, § 91.1603, was first issued, an armed conflict was ongoing in Libya, which presented a hazard to U.S. civil aviation. The FAA was concerned that runways at Libya's international airports, including the main international airports serving Benghazi (HLLB) and Tripoli (HLLT), might be damaged or degraded. There was also concern that air navigation services in the Tripoli FIR (HLLL) might be unavailable or degraded. In addition, the proliferation of air defense weapons, including Man-Portable Air-Defense Systems (MANPADS), and the presence of military operations, including Libyan aerial bombardments and unplanned military flights entering and departing the Tripoli FIR (HLLL), posed a hazard to U.S. civil operators, U.S.-registered civil aircraft, and FAA-certificated airmen that might operate in the Tripoli FIR (HLLL). Additionally, the United Nations Security Council had adopted Resolution 1973 on March 18, 2011, which mandated a ban on all flights in the airspace of Libya, with certain exceptions.

By March 2014, although former Libyan leader Muammar Gaddafi's regime had been overthrown, and the UN-mandated ban on flights in Libyan airspace had been lifted, the FAA continued to have significant security concerns for Libya and for the safety of U.S. civil aviation operations in the country. On March 20, 2014, the FAA extended the expiration date of SFAR No. 112, § 91.1603, to March 20, 2015.[2] The FAA considered that, on December 12, 2013, the Department of State had issued a Travel Warning strongly advising against all non-essential travel to Libya. Additionally, many military-grade weapons remained in the hands of private individuals and groups, among them anti-aircraft weapons that could be used against civil aviation, including MANPADS.

In March 2015, the FAA continued to have significant concerns regarding the safety of U.S. civil aviation operations in the Tripoli FIR (HLLL) at all altitudes due to the hazardous situation created by the ongoing fighting involving various militant groups and Libyan military forces in various areas of Libya, including some near Tripoli and Benghazi. Islamist militant groups held and controlled significant portions of Western Libya, including areas in close proximity to Tripoli International Airport (HLLT). Militant groups, such as Libyan Dawn, possessed a variety of anti-aircraft weapons, which gave them the capability to target aircraft upon landing and departure and at higher altitudes. Civil aviation infrastructure continued to be at risk from indirect fire from mortars and rockets targeting Libyan airports during the ongoing fighting. For these reasons, the FAA extended the expiration date of SFAR No. 112, § 91.1603, from March 20, 2015, to March 20, 2017.[3]

In March 2017, the FAA continued to assess the situation in the Tripoli FIR (HLLL) as being hazardous for U.S. civil aviation. The newly-established interim government did not control vast portions of Libyan territory, security conditions remained unstable throughout the country, and the FAA was concerned that fighting could flare up with little or no warning as various elements vied for political influence and territorial control. Anti-aircraft-capable weapons remained a continuing threat, as demonstrated by the July 2016 shoot down of a military helicopter near Benghazi. Therefore, since there was a significant continuing risk to the safety of U.S. civil aviation in the Tripoli FIR (HLLL), the FAA extended the expiration date of SFAR No. 112, § 91.1603, from March 20, 2017, to March 20, 2019.[4]

IV. Discussion of the Final Rule

Since the 2017 final rule, the FAA finds that security and safety conditions have sufficiently improved to allow U.S. civil flights to operate in the Tripoli FIR (HLLL) at altitudes at or above FL300. However, the FAA finds an extension of the prohibition is necessary for altitudes below FL300 to safeguard against continuing hazards to U.S. civil aviation.

Extremist/militant elements operating in Libya are believed not to possess anti-aircraft weapons capable of threatening U.S. civil aviation operations at or above FL260, and there is a lower risk of civil-military deconfliction concerns at cruising altitudes at or above FL300. Based on this assessment, the FAA has determined that overflights of the Tripoli FIR (HLLL) may be conducted safely at or above FL300, subject to the approval of, and in accordance with the conditions established by, the appropriate authorities of Libya.

Currently, there are two air navigation service providers (ANSPs) operating in the Tripoli FIR (HLLL). The Tripoli-based ANSP is recognized by the International Civil Aviation Organization (ICAO) and has issued an Aeronautical Information Publication (AIP) and a NOTAM containing overflight procedures for civil aviation operations in the Tripoli FIR (HLLL). The ANSP in Benghazi provides air navigation services in the eastern part of the country. Despite the fact that there are two ANSPs operating in the Tripoli FIR (HLLL), the FAA has determined that this situation poses a minimal safety risk to U.S. civil overflight operations. There are appropriately publicized overflight instructions in the AIP and NOTAM. Additionally, the FAA has not received any reports of the two ANSPs providing conflicting guidance to civil aircraft or otherwise behaving in ways that would pose safety of flight concerns for international overflights.

For these reasons, the FAA has determined the risk to U.S. civil aviation in the Tripoli FIR (HLLL) has been sufficiently reduced to permit U.S. civil aviation operations at or above FL300. This change allows U.S. operators the option of using certain air routes connecting Europe with central Africa and western Africa with the Middle East. Operators are reminded to review current aeronautical information, including the relevant AIP and all applicable NOTAMS, prior to conducting flight operations in the Tripoli FIR (HLLL) at or above FL300; maintain communications with air traffic control; and follow air traffic control instructions.

The FAA remains concerned about the hazards to U.S. civil aviation operations in the Tripoli FIR (HLLL) at altitudes below FL300, which necessitate a continuing flight prohibition for those altitudes. These hazards relate to continued instability in Libya, fighting involving various militia/extremist/militant elements, the ready availability to extremists/militants of anti-aircraft-capable weapons, and

[1] 76 FR 16238, March 23, 2011.

[2] 79 FR 15679, March 20, 2014, corrected at 79 FR 19288, April 8, 2014.

[3] 80 FR 15503, March 24, 2015.

[4] 82 FR 14433, March 21, 2017.

aerial activity by foreign sponsors supporting various elements operating in Libya that may not be adequately de-conflicted with civil air traffic. The risks to U.S. civil aviation are greatest at airports in Libya and during low altitude operations near airports or in areas of actual or potential fighting.

Libya remains politically unstable, with a fragile security situation. Since the fall of the Gaddafi regime, Libya has struggled with a power vacuum, a limited security apparatus, and limited territorial control. There are multiple extremist/militant groups with footholds in Libya that are armed with anti-aircraft-capable weapons. Various militia/extremist/militant groups continue to vie for strategic influence and control of vital infrastructure, including airports. Competing armed factions have periodically clashed in close proximity to Mitiga International Airport (HLLM) in Tripoli, resulting in multiple flight disruptions. In October 2017, a Libyan Airlines A330 flying at low altitude near HLLM suffered damage from small-arms fire associated with such a clash. In January 2017, factional fighting resulted in a five-day closure of the airport and damage to multiple passenger aircraft that were on the tarmac by artillery or small-arms fire. Clashes erupted near the airport again in August 2018, resulting in multiple flight disruptions and closures of the airport throughout September 2018. On August 31, 2018, indirect fire damaged at least one hangar at HLLM, and, in October 2018, a rocket attack resulted in aircraft being relocated away from the airport and inbound flights rerouted.

Additionally, violent extremists/militants active in Libya possess, or have access to, a wide array of anti-aircraft-capable weapons posing a risk to U.S. civil aviation operating at altitudes below FL260. Aerial activity of foreign sponsors supporting various factions in Libya occurs primarily at altitudes below FL300. This amendment permits U.S. civil overflights of the Tripoli FIR (HLLL) only at FL300 and above. Foreign sponsor aerial activities that present civil-military deconfliction challenges at altitudes below FL300 include a variety of unmanned aircraft systems (UAS) and other military aircraft operations, along with the potential for electronic interference from counter-UAS measures. While aircraft overflying the Tripoli FIR (HLLL) at altitudes at or above FL300 could potentially encounter electronic interference from counter-UAS measures, such interference would not present a significant flight safety hazard. At cruising altitudes at or above FL300, pilots would have sufficient time to recognize the interference and respond to it by the use of, and verification from, other instruments or navigation aids.

Therefore, based on the changed circumstances in the Tripoli FIR (HLLL) at altitudes at and above FL300, the FAA is modifying its flight prohibition for U.S. civil aviation to permit overflights of the Tripoli FIR (HLLL) at altitudes at and above FL300, subject to the approval of, and in accordance with the conditions established by, the appropriate authorities of Libya. However, as a result of the significant continuing risk to the safety of U.S. civil aviation operating at altitudes below FL300 in the Tripoli FIR (HLLL), the FAA extends the expiration date of SFAR No. 112, § 91.1603, from March 20, 2019 to March 20, 2021, and maintains its prohibition of U.S. civil flight operations in the Tripoli FIR (HLLL) at altitudes below FL300.

The FAA will continue to actively monitor the situation and evaluate the extent to which U.S. civil operators and airmen may be able to operate safely in the Tripoli FIR (HLLL) at altitudes below FL300. Amendments to SFAR No. 112, § 91.1603, may be appropriate if the risk to aviation safety and security changes. The FAA may amend or rescind SFAR No. 112, § 91.1603, as necessary, prior to its expiration date.

The FAA also republishes, with minor revisions, the approval process and exemption information for this SFAR, so that persons described in paragraph (a) of the rule may refer to this final rule, rather than having to search through previous final rules to find the relevant approval process and exemption information. This approval process and exemption information is consistent with other similar SFARs and recent agency practice. In addition, the FAA is making an editorial correction to the title of the rule so that the ICAO four-letter FIR identification code appears in parentheses after ''Tripoli Flight Information Region'' or ''Tripoli FIR,'' in accordance with the title formatting of more recently published SFARs. The FAA also makes other minor revisions for consistency with other recently published flight prohibition SFARs.

V. Approval Process Based on a Request From a Department, Agency, or Instrumentality of the United States Government

A. Approval Process Based on an Authorization Request From a Department, Agency, or Instrumentality of the United States Government

In some instances, U.S. government departments, agencies, or instrumentalities may need to engage U.S. civil aviation to support their activities in the Tripoli FIR (HLLL) at altitudes below FL300. If a department, agency, or instrumentality of the U.S. Government determines that it has a critical need to engage any person described in SFAR No. 112, § 91.1603, including a U.S. air carrier or commercial operator, to conduct a charter to transport civilian or military passengers or cargo, or other operations, in the Tripoli FIR (HLLL) at altitudes below FL300, that department, agency, or instrumentality may request the FAA to approve persons described in SFAR No. 112, § 91.1603, to conduct such operations.

An approval request must be made directly by the requesting department, agency, or instrumentality of the U.S. Government to the FAA's Associate Administrator for Aviation Safety in a letter signed by an appropriate senior official of the requesting department, agency, or instrumentality. The FAA will not accept or consider requests for approval by anyone other than the requesting department, agency, or instrumentality. In addition, the senior official signing the letter requesting FAA approval on behalf of the requesting department, agency, or instrumentality must be sufficiently positioned within the organization to demonstrate that the senior leadership of the requesting department, agency, or instrumentality supports the request for approval and is committed to taking all necessary steps to minimize operational risks to the proposed flights. The senior official must also be in a position to: (1) Attest to the accuracy of all representations made to the FAA in the request for approval and (2) ensure that any support from the requesting U.S. Government department, agency, or instrumentality described in the request for approval is in fact brought to bear and is maintained over time. Unless justified by exigent circumstances, requests for approval must be submitted to the FAA no less than 30 calendar days before the date on which the requesting department, agency, or instrumentality wishes the proposed operations to commence.

The letter must be sent to the Associate Administrator for Aviation Safety, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591. Electronic submissions are acceptable, and the requesting entity may request that the FAA notify it electronically as to whether the approval request is granted. If a requestor wishes to make an electronic submission to the FAA, the requestor should contact the Air

Transportation Division, Flight Standards Service, at (202) 267–8166, to obtain the appropriate email address. A single letter may request approval from the FAA for multiple persons described in SFAR No. 112, § 91.1603, and/or for multiple flight operations. To the extent known, the letter must identify the person(s) expected to be covered under the SFAR on whose behalf the U.S. Government department, agency, or instrumentality is seeking FAA approval, and it must describe—

- The proposed operation(s), including the nature of the mission being supported;
- The service to be provided by the person(s) covered by the SFAR;
- To the extent known, the specific locations in the Tripoli FIR (HLLL) at altitudes below FL300 where the proposed operation(s) will be conducted, including, but not limited to, the flight path and altitude of the aircraft while it is operating in the Tripoli FIR (HLLL) at altitudes below FL300 and the airports, airfields and/or landing zones at which the aircraft will take-off and land; and
- The method by which the department, agency, or instrumentality will provide, or how the operator will otherwise obtain, current threat information and an explanation of how the operator will integrate this information into all phases of the proposed operations (*i.e.,* pre-mission planning and briefing, in-flight, and post-flight phases).

The request for approval must also include a list of operators with whom the U.S. Government department, agency, or instrumentality requesting FAA approval has a current contract(s), grant(s), or cooperative agreement(s) (or its prime contractor has a subcontract(s)) for specific flight operations in the Tripoli FIR (HLLL) at altitudes below FL300. Additional operators may be identified to the FAA at any time after the FAA approval is issued. However, all additional operators must be identified to, and obtain an Operations Specification (OpSpec) or Letter of Authorization (LOA) from, the FAA, as appropriate, for operations in the Tripoli FIR (HLLL) at altitudes below FL300, before such operators commence such operations. The approval conditions discussed below apply to any such additional operators. Updated lists should be sent to the email address to be obtained from the Air Transportation Division, by calling (202) 267–8166.

If an approval request includes classified information, requestors may contact Aviation Safety Inspector Dale E. Roberts for instructions on submitting it to the FAA. His contact information is listed in the **FOR FURTHER INFORMATION CONTACT** section of this final rule.

FAA approval of an operation under SFAR No. 112, § 91.1603, does not relieve persons subject to this SFAR of their responsibility to comply with all other applicable FAA rules and regulations. Operators of civil aircraft must comply with the conditions of their certificate, OpSpecs, and LOAs, as applicable. Operators must also comply with all rules and regulations of other U.S. Government departments or agencies that may apply to the proposed operation(s), including, but not limited to, regulations issued by the Transportation Security Administration.

B. Approval Conditions

If the FAA approves the request, the FAA's Aviation Safety Organization will send an approval letter to the requesting department, agency, or instrumentality informing it that the FAA's approval is subject to all of the following conditions:

(1) The approval will stipulate those procedures and conditions that limit, to the greatest degree possible, the risk to the operator, while still allowing the operator to achieve its operational objectives.

(2) Before any approval takes effect, the operator must submit to the FAA:

(a) A written release of the U.S. Government from all damages, claims, and liabilities, including without limitation legal fees and expenses, relating to any event arising out of or related to the approved operations in the Tripoli FIR (HLLL) at altitudes below FL300; and

(b) The operator's written agreement to indemnify the U.S. Government with respect to any and all third-party damages, claims, and liabilities, including without limitation legal fees and expenses, relating to any event arising from or related to the approved operations in the Tripoli FIR (HLLL) at altitudes below FL300.

(3) Other conditions that the FAA may specify, including those that may be imposed in OpSpecs or LOAs, as applicable.

The release and agreement to indemnify do not preclude an operator from raising a claim under an applicable non-premium war risk insurance policy issued by the FAA under chapter 443 of title 49, U.S. Code.

If the FAA approves the proposed operation(s), the FAA will issue an OpSpec or a LOA, as applicable, to the operator(s) identified in the original request authorizing them to conduct the approved operation(s), and will notify the department, agency, or instrumentality that requested the FAA approval of any additional conditions beyond those contained in the approval letter.

VI. Information Regarding Petitions for Exemption

Any operations not conducted under an approval issued by the FAA through the approval process set forth previously must be conducted under an exemption from SFAR No. 112, § 91.1603. A petition for exemption must comply with 14 CFR part 11 and requires exceptional circumstances beyond those contemplated by the approval process described in the previous section. In addition to the information required by 14 CFR 11.81, at a minimum, the requestor must describe in its submission to the FAA—

- The proposed operation(s), including the nature of the operation;
- The service to be provided by the person(s) covered by the SFAR;
- The specific locations in the Tripoli FIR (HLLL) at altitudes below FL300 where the proposed operation(s) will be conducted, including, but not limited to, the flight path and altitude of the aircraft while it is operating in the Tripoli FIR (HLLL) at altitudes below FL300 and the airports, airfields and/or landing zones at which the aircraft will take-off and land;
- The method by which the operator will obtain current threat information, and an explanation of how the operator will integrate this information into all phases of its proposed operations (*i.e.,* the pre-mission planning and briefing, in-flight, and post-flight phases); and
- The plans and procedures that the operator will use to minimize the risks, identified in this preamble, to the proposed operations, so that granting the exemption would not adversely affect safety or would provide a level of safety at least equal to that provided by this SFAR. *Note:* The FAA has found comprehensive, organized plans and procedures to be helpful in facilitating the agency's safety evaluation of petitions for exemption from flight prohibition SFARs.

Additionally, the release and agreement to indemnify, as referred to previously, are required as a condition of any exemption that may be issued under SFAR No. 112, § 91.1603.

The FAA recognizes that operations that may be affected by SFAR No. 112, § 91.1603, may be planned for the governments of other countries with the support of the U.S. Government. While these operations will not be permitted through the approval process, the FAA will consider exemption requests for such operations on an expedited basis

and prior to any private exemption requests.

If a petition for exemption includes security-sensitive or proprietary information, requestors may contact Aviation Safety Inspector Dale E. Roberts for instructions on submitting it to the FAA. His contact information is listed in the **FOR FURTHER INFORMATION CONTACT** section of this final rule.

VII. Regulatory Notices and Analyses

Changes to Federal regulations must undergo several economic analyses. First, Executive Orders 12866 and 13563 direct that each Federal agency shall propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 (Pub. L. 96–354), as codified in 5 U.S.C. 603 *et seq.,* requires agencies to analyze the economic impact of regulatory changes on small entities. Third, the Trade Agreements Act of 1979 (Pub. L. 96–39), as codified in 19 U.S.C. chapter 13, prohibits agencies from setting standards that create unnecessary obstacles to the foreign commerce of the United States. In developing U.S. standards, the Trade Agreements Act requires agencies to consider international standards and, where appropriate, that they be the basis of U.S. standards. Fourth, the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4), as codified in 2 U.S.C. chapter 25, requires agencies to prepare a written assessment of the costs, benefits, and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of $100 million or more annually (adjusted for inflation with base year of 1995). This portion of the preamble summarizes the FAA's analysis of the economic impacts of this final rule.

In conducting these analyses, the FAA has determined that this final rule has benefits that justify its costs. This rule is a significant regulatory action, as defined in section 3(f) of Executive Order 12866, as it raises novel policy issues contemplated under that Executive Order. As notice and comment under 5 U.S.C. 553 are not required for this final rule, the regulatory flexibility analyses described in 5 U.S.C. 603 and 604 regarding impacts on small entities are not required. This rule will not create unnecessary obstacles to the foreign commerce of the United States. This rule will not impose an unfunded mandate on State, local, or tribal governments, or on the private sector, by exceeding the threshold identified previously.

A. Regulatory Evaluation

This action extends the expiration date of SFAR No. 112, § 91.1603, until March 20, 2021, and amends the rule to allow U.S. civil flight operations at altitudes at or above FL300 in the Tripoli FIR (HLLL). The FAA has determined that continuing to prohibit U.S. civil flight operations at altitudes below FL300 in the Tripoli FIR (HLLL) imposes only minimal cost, because few operators subject to the rule wish to operate in that airspace, owing to the continuing significant hazards to U.S. civil aviation therein, as detailed in the preamble of this final rule. The final rule provides an approval process, as previously described, for U.S. Government departments, agencies, and instrumentalities needing to engage U.S. civil aviation to support their activities in the Tripoli FIR (HLLL) at altitudes below FL300. Since 2011, when SFAR No. 112 was first issued, the FAA has granted a small number of such approvals, only two of which are currently active. Further supporting the finding, the FAA has only received one petition for exemption from SFAR No. 112, § 91.1603, since its original issuance in 2011. That petition for exemption was subsequently withdrawn by the petitioner. As a result, the FAA finds the rule to be cost-beneficial, since the costs to the few operators who might wish to operate in the Tripoli FIR (HLLL) at altitudes below FL300 are exceeded by the benefits of avoiding significant loss of life, injuries, and property damage that might result if a U.S. operator's aircraft were downed by any of the hazards described in the preamble to this final rule.

The FAA has determined, however, that extremist/militant elements operating in Libya are assessed not to possess anti-aircraft weapons capable of threatening U.S. civil aviation above FL260 and has also determined that there is a reduced risk of civil-military deconfliction concerns at cruising altitudes above FL300. Based on these assessments, this action amends the rule to allow overflights of the Tripoli FIR (HLLL) by U.S. civil operators and airmen at or above FL300. This provision is cost-beneficial, because it allows U.S. civil aviation operators the option of using certain air routes connecting Europe with central Africa and western Africa with the Middle East. These expected benefits outweigh the expected costs associated with the residual risk to U.S. civil aviation operations at or above FL300 from the hazards described in the preamble to this final rule.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA), in 5 U.S.C. 603, requires an agency to prepare an initial regulatory flexibility analysis describing impacts on small entities whenever an agency is required by 5 U.S.C. 553, or any other law, to publish a general notice of proposed rulemaking for any proposed rule. Similarly, 5 U.S.C. 604 requires an agency to prepare a final regulatory flexibility analysis when an agency issues a final rule under 5 U.S.C. 553, after being required by that section or any other law to publish a general notice of proposed rulemaking. The FAA found good cause to forgo notice and comment and any delay in the effective date for this rule. As notice and comment under 5 U.S.C. 553 are not required in this situation, the regulatory flexibility analyses described in 5 U.S.C. 603 and 604 are not required.

C. International Trade Impact Assessment

The Trade Agreements Act of 1979 (Pub. L. 96–39) prohibits Federal agencies from establishing standards or engaging in related activities that create unnecessary obstacles to the foreign commerce of the United States. Pursuant to this Act, the establishment of standards is not considered an unnecessary obstacle to the foreign commerce of the United States, so long as the standard has a legitimate domestic objective, such as the protection of safety, and does not operate in a manner that excludes imports that meet this objective. The statute also requires consideration of international standards and, where appropriate, that they be the basis for U.S. standards.

The FAA has assessed the potential effect of this final rule and determined that its purpose is to protect the safety of U.S. civil aviation from hazards to aircraft operations in the Tripoli FIR (HLLL), a location outside the U.S. Therefore, this final rule complies with the Trade Agreements Act of 1979.

D. Unfunded Mandates Assessment

Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires each Federal agency to prepare a written statement assessing the effects of any Federal mandate in a proposed or final agency rule that may result in an expenditure of $100 million or more (in 1995 dollars) in any one year by State, local, and tribal governments, in the aggregate, or by the private sector; such a mandate is deemed to be a ''significant

regulatory action.'' The FAA currently uses an inflation-adjusted value of $155 million in lieu of $100 million.

This final rule does not contain such a mandate. Therefore, the requirements of Title II of the Act do not apply.

E. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) requires that the FAA consider the impact of paperwork and other information collection burdens imposed on the public. The FAA has determined there is no new requirement for information collection associated with this final rule.

F. International Compatibility and Cooperation

In keeping with U.S. obligations under the Convention on International Civil Aviation, it is FAA's policy to conform to ICAO Standards and Recommended Practices to the maximum extent practicable. The FAA has determined there are no ICAO Standards and Recommended Practices that correspond to this regulation.

While the FAA's flight prohibition does not apply to foreign air carriers, DOT codeshare authorizations prohibit foreign air carriers from carrying a U.S. codeshare partner's code on a flight segment that operates in airspace for which the FAA has issued a flight prohibition. In addition, foreign air carriers and other foreign operators may choose to avoid, or be advised/directed by their civil aviation authorities to avoid, airspace for which the FAA has issued a flight prohibition.

G. Environmental Analysis

The FAA has analyzed this action under Executive Order 12114, Environmental Effects Abroad of Major Federal Actions (44 FR 1957, January 4, 1979), and DOT Order 5610.1C, Paragraph 16. Executive Order 12114 requires the FAA to be informed of environmental considerations and take those considerations into account when making decisions on major Federal actions that could have environmental impacts anywhere beyond the borders of the United States. The FAA has determined this action is exempt pursuant to Section 2–5(a)(i) of Executive Order 12114, because it does not have the potential for a significant effect on the environment outside the United States.

In accordance with FAA Order 1050.1F, ''Environmental Impacts: Policies and Procedures,'' paragraph 8–6(c), FAA has prepared a memorandum for the record stating the reason(s) for this determination; this memorandum has been placed in the docket for this rulemaking.

VIII. Executive Order Determinations

A. Executive Order 13132, Federalism

The FAA has analyzed this rule under the principles and criteria of Executive Order 13132, Federalism. The agency has determined this action would not have a substantial direct effect on the States, or the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government, and, therefore, would not have Federalism implications.

B. Executive Order 13211, Regulations That Significantly Affect Energy Supply, Distribution, or Use

The FAA analyzed this rule under Executive Order 13211, Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use (May 18, 2001). The agency has determined that it would not be a ''significant energy action'' under the executive order and would not be likely to have a significant adverse effect on the supply, distribution, or use of energy.

C. Executive Order 13609, Promoting International Regulatory Cooperation

Executive Order 13609, Promoting International Regulatory Cooperation, (77 FR 26413, May 4, 2012) promotes international regulatory cooperation to meet shared challenges involving health, safety, labor, security, environmental, and other issues and to reduce, eliminate, or prevent unnecessary differences in regulatory requirements. The FAA has analyzed this action under the policies and agency responsibilities of Executive Order 13609, and has determined that this action would have no effect on international regulatory cooperation.

D. Executive Order 13771, Reducing Regulation and Controlling Regulatory Costs

This rule is not subject to the requirements of E.O. 13771 (82 FR 9339, Feb. 3, 2017) because it is issued with respect to a national security function of the United States.

IX. Additional Information

A. Availability of Rulemaking Documents

An electronic copy of a rulemaking document may be obtained from the internet by—

- Searching the Federal Document Management System (FDMS) Portal (*http://www.regulations.gov*);
- Visiting the FAA's Regulations and Policies web page at *http://www.faa.gov/regulations_policies;* or
- Accessing the Government Publishing Office's web page at *http://www.govinfo.gov.*

Copies may also be obtained by sending a request (identified by amendment or docket number of this rulemaking) to the Federal Aviation Administration, Office of Rulemaking, ARM–1, 800 Independence Avenue SW, Washington, DC 20591, or by calling (202) 267–9677.

Except for classified material, all documents the FAA considered in developing this rule, including economic analyses and technical reports, may be accessed from the internet through the Federal Document Management System Portal referenced previously.

B. Small Business Regulatory Enforcement Fairness Act

The Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA) (Pub. L. 104–121) (set forth as a note to 5 U.S.C. 601) requires FAA to comply with small entity requests for information or advice about compliance with statutes and regulations within its jurisdiction. A small entity with questions regarding this document may contact its local FAA official, or the persons listed under the **FOR FURTHER INFORMATION CONTACT** heading at the beginning of the preamble. To find out more about SBREFA on the internet, visit *http://www.faa.gov/regulations_policies/rulemaking/sbre_act/.*

List of Subjects in 14 CFR Part 91

Air traffic control, Aircraft, Airmen, Airports, Aviation safety, Freight, Libya.

The Amendment

In consideration of the foregoing, the Federal Aviation Administration amends chapter I of title 14, Code of Federal Regulations, part 91, as follows:

PART 91—GENERAL OPERATING AND FLIGHT RULES

■ 1. The authority citation for part 91 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g), 1155, 40101, 40103, 40105, 40113, 40120, 44101, 44111, 44701, 44704, 44709, 44711, 44712, 44715, 44716, 44717, 44722, 46306, 46315, 46316, 46504, 46506–46507, 47122, 47508, 47528–47531, 47534, Pub. L. 114–190, 130 Stat. 615 (49 U.S.C. 44703 note); articles 12 and 29 of the Convention on International Civil Aviation (61 Stat. 1180), (126 Stat. 11).

■ 2. Revise § 91.1603 to read as follows:

§ 91.1603 Special Federal Aviation Regulation No. 112—Prohibition Against Certain Flights in the Tripoli Flight Information Region (FIR) (HLLL).

(a) *Applicability.* This Special Federal Aviation Regulation (SFAR) applies to the following persons:

(1) All U.S. air carriers and U.S. commercial operators;

(2) All persons exercising the privileges of an airman certificate issued by the FAA, except when such persons are operating U.S.-registered aircraft for a foreign air carrier; and

(3) All operators of U.S.-registered civil aircraft, except where the operator of such aircraft is a foreign air carrier.

(b) *Flight prohibition.* Except as provided in paragraphs (c) and (d) of this section, no person described in paragraph (a) of this section may conduct flight operations in the Tripoli Flight Information Region (FIR) (HLLL).

(c) *Permitted operations.* This section does not prohibit persons described in paragraph (a) of this section from conducting flight operations in the Tripoli Flight Information Region (FIR) (HLLL) under the following circumstances:

(1) Overflights of the Tripoli FIR (HLLL) may be conducted at altitudes at or above FL300, subject to the approval of, and in accordance with the conditions established by, the appropriate authorities of Libya.

(2) Flight operations in the Tripoli FIR (HLLL) at altitudes below FL300 are permitted if they are conducted under a contract, grant, or cooperative agreement with a department, agency, or instrumentality of the U.S. Government (or under a subcontract between the prime contractor of the department, agency, or instrumentality and the person described in paragraph (a) of this section) with the approval of the FAA, or under an exemption issued by the FAA. The FAA will consider requests for approval or exemption in a timely manner, with the order of preference being: First, for those operations in support of U.S. Government-sponsored activities; second, for those operations in support of government-sponsored activities of a foreign country with the support of a U.S. Government department, agency, or instrumentality; and third, for all other operations.

(d) *Emergency situations.* In an emergency that requires immediate decision and action for the safety of the flight, the pilot in command of an aircraft may deviate from this section to the extent required by that emergency. Except for U.S. air carriers and commercial operators that are subject to the requirements of 14 CFR part 119, 121, 125, or 135, each person who deviates from this section must, within 10 days of the deviation, excluding Saturdays, Sundays, and Federal holidays, submit to the responsible Flight Standards Office a complete report of the operations of the aircraft involved in the deviation, including a description of the deviation and the reasons for it.

(e) *Expiration.* This Special Federal Aviation Regulation (SFAR) will remain in effect until March 20, 2021. The FAA may amend, rescind, or extend this SFAR, as necessary.

Issued in Washington, DC, under the authority of 49 U.S.C. 106(f) and (g), 40101(d)(1), 40105(b)(1)(A), and 44701(a)(5), on March 12, 019.

Daniel K. Elwell,

Acting Administrator.

[FR Doc. 2019–04896 Filed 3–18–19; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF STATE

22 CFR Parts 35, 103, 127, and 138

[Public Notice 10692]

RIN 1400–AE75

Department of State 2019 Civil Monetary Penalties Inflationary Adjustment

AGENCY: Department of State.

ACTION: Final rule.

SUMMARY: This final rule is issued to adjust the civil monetary penalties (CMP) for regulatory provisions maintained and enforced by the Department of State. The revised CMP adjusts the amount of civil monetary penalties assessed by the Department of State based on the December 2018 guidance from the Office of Management and Budget. The new amounts will apply only to those penalties assessed on or after the effective date of this rule, regardless of the date on which the underlying facts or violations occurred.

DATES: This final rule is effective on March 19, 2019.

FOR FURTHER INFORMATION CONTACT: Alice Kottmyer, Attorney-Adviser, Office of Management, *kottmyeram@state.gov.* ATTN: Regulatory Change, CMP Adjustments, (202) 647–2318.

SUPPLEMENTARY INFORMATION: The Federal Civil Penalties Inflation Adjustment Act of 1990, Public Law 101–410, as amended by the Debt Collection Improvement Act of 1996, Public Law 104–134, required the head of each agency to adjust its CMPs for inflation no later than October 23, 1996 and required agencies to make adjustments at least once every four years thereafter. The Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, Section 701 of Public Law 114–74 (the 2015 Act) further amended the 1990 Act by requiring agencies to adjust CMPs, if necessary, pursuant to a ''catch-up'' adjustment methodology prescribed by the 2015 Act, which mandated that the catch-up adjustment take effect no later than August 1, 2016. Additionally, the 2015 Act required agencies to make annual adjustments to their respective CMPs in accordance with guidance issued by the Office of Management and Budget (OMB).

Based on these statutes, the Department of State (the Department) published a final rule in June 2016 to implement the ''catch-up'' provisions; and annual updates to its CMPs in January 2017 and January 2018.

On December 14, 2018, OMB notified agencies that the annual cost-of-living adjustment multiplier for 2019, based on the Consumer Price Index, is 1.02522. Additional information may be found in OMB Memorandum M–19–04, at: *https://www.whitehouse.gov/wp-content/uploads/2017/11/m_19_04.pdf.* This final rule amends Department CMPs for fiscal year 2019.

Overview of the Areas Affected by This Rule

Within the Department of State (title 22, Code of Federal Regulations), this rule affects four areas:

(1) Part 35, which implements the Program Fraud Civil Remedies Act of 1986 (PFCRA), codified at 31 U.S.C. 3801–3812;

(2) Part 103, which implements the Chemical Weapons Convention Implementation Act of 1998 (CWC Act);

(3) Part 127, which implements the penalty provisions of sections 38(e), 39A(c), and 40(k) of the Arms Export Control Act (AECA) (22 U.S.C. 2778(e), 2779a(c), 2780(k)); and

(4) Part 138, which implements Section 319 of Public Law 101–121, codified at 31 U.S.C. 1352, and prohibits recipients of Federal contracts, grants, and loans from using appropriated funds for lobbying the Executive or Legislative Branches of the Federal government in connection with a specific contract.

Specific Changes to 22 CFR Made by This Rule

I. Part 35

The PFRCA, enacted in 1986, authorizes agencies, with approval from the Department of Justice, to pursue

individuals or firms for false claims. Applying the 2019 multiplier (1.02522), the new maximum liabilities are as follows: $11,463, up to a maximum of $343,903.

II. Part 103

The CWC Act provided domestic implementation of the Convention on the Prohibition of the Development, Production, Stockpiling, and Use of Chemical Weapons and on Their Destruction. The penalty provisions of the CWC Act are codified at 22 U.S.C. 6761. Applying the 2019 multiplier (1.02522), the new maximum amounts are as follows: *Prohibited acts related to inspections,* $38,549; for *Recordkeeping violations,* $7,710.

III. Part 127

The Assistant Secretary of State for Political-Military Affairs is responsible for the imposition of CMPs under the International Traffic in Arms Regulations (ITAR), which is administered by the Directorate of Defense Trade Controls (DDTC).

(1) AECA section 38(e):

Applying the 2019 multiplier (1.02522), the new maximum penalty under 22 U.S.C. 2778 (22 CFR 127.10(a)(1)(i)) is $1,163,217.

(2) AECA section 39A(c):

Applying the multiplier, the new maximum penalty under 22 U.S.C. 2779a (22 CFR 127.10(a)(1)(ii)) is $845,764, or five times the amount of the prohibited payment, whichever is greater.

(3) AECA section 40(k):

Applying the multiplier, the new maximum penalty under 22 U.S.C. 2780 (22 CFR 127.10(a)(1)(iii)) is $1,006,699.

IV. Part 138

Section 319 of Public Law 101–121, codified at 31 U.S.C. 1352, provides penalties for recipients of Federal contracts, grants, and loans who use appropriated funds to lobby the Executive or Legislative Branches of the Federal government in connection with a specific contract, grant, or loan. Any person who violates that prohibition is subject to a civil penalty. The statute also requires each person who requests or receives a Federal contract, grant, cooperative agreement, loan, or a Federal commitment to insure or guarantee a loan, to disclose any lobbying; there is a penalty for failure to disclose.

The maximum penalties for both improper expenditures and failure to disclose, is: For first offenders, $19,809; for others, not less than $20,134, and not more than $201,340.

Summary

Citation in 22 CFR	2018 Amount of penalty	New amount of penalty
§ 35.3	$11,181 *up to* $335,443	$11,463 *up to* $343,903.
§ 103.6 *Prohibited Acts*	$37,601	$38,549.
§ 103.6 *Recordkeeping Violations*	$7,520	$7,710.
§ 127.10(a)(1)(i)	$1,134,602	$1,163,217.
§ 127.10(a)(1)(ii)	$824,959 *or 5 times the amount of the prohibited payment, whichever is greater.*	$845,764 *or 5 times the amount of the prohibited payment, whichever is greater.*
§ 127.10(a)(1)(iii)	$981,935	$1,006,699.
§ 138.400 *First Offenders*	$19,322	$19,809.
§ 138.400	$19,639 *up to* $196,387	$20,134 *up to* $201,340.

2019 multiplier: 1.02522.

Effective Date of Penalties

The revised CMP amounts will go into effect on the date this rule is published. All violations for which CMPs are assessed on or after the effective date of this rule, regardless of whether the violation occurred before the effective date, will be assessed at the adjusted penalty level.

Future Adjustments and Reporting

The 2015 Act directed agencies to undertake an annual review of CMPs using a formula prescribed by the statute. Annual adjustments to CMPs are made in accordance with the guidance issued by OMB. As in this rulemaking, the Department of State will publish notification of annual inflation adjustments to CMPs in the **Federal Register** no later than January 15 of each year, with the adjusted amount taking effect immediately upon publication. (This publication was delayed due to the lapse in appropriations in January 2019.)

Regulatory Analysis and Notices

Administrative Procedure Act

The Department of State is publishing this rule using the ''good cause'' exception to the Administrative Procedure Act (5 U.S.C. 553(b)), as the Department has determined that public comment on this rulemaking would be impractical, unnecessary, or contrary to the public interest. This rulemaking is mandatory and entirely without agency discretion; it implements Public Law 114–74. *See* 5 U.S.C. 553(d)(3).

Regulatory Flexibility Act

Because this rulemaking is exempt from 5 U.S.C. 553, a Regulatory Flexibility Analysis is not required.

Unfunded Mandates Reform Act of 1995

This rule does not involve a mandate that will 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 year and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule within the meaning of the Small Business Regulatory Enforcement Fairness Act of 1996.

Executive Orders 12372 and 13132

This amendment will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 13132, it is determined that this amendment does not have sufficient federalism implications to require consultations or warrant the preparation of a federalism summary impact statement.

Executive Orders 12866, 13563, and 13771

The Department believes that benefits of the rulemaking outweigh any costs, and there are no feasible alternatives to this rulemaking. It is the Department's position that this rulemaking is not an economically significant rule under the criteria of Executive Order 12866, and is

consistent with the provisions of Executive Order 13563. This rule is not an E.O. 13771 regulatory action because this rule is not significant under E.O. 12866.

Executive Order 12988

The Department of State has reviewed the proposed amendment in light of Executive Order 12988 to eliminate ambiguity, minimize litigation, establish clear legal standards, and reduce burden.

Executive Order 13175

The Department of State has determined that this rulemaking will not have tribal implications, will not impose substantial direct compliance costs on Indian tribal governments, and will not preempt tribal law. Accordingly, Executive Order 13175 does not apply to this rulemaking.

Paperwork Reduction Act

This rulemaking does not impose or revise any information collections subject to 44 U.S.C. chapter 35.

List of Subjects

22 CFR Part 35

Administrative practice and procedure, Claims, Fraud, Penalties.

22 CFR Part 103

Administrative practice and procedure, Chemicals, Classified information, Foreign relations, Freedom of information, International organization, Investigations, Penalties, Reporting and recordkeeping requirements.

22 CFR Part 127

Arms and munitions, Exports.

22 CFR Part 138

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

For the reasons set forth above, 22 CFR parts 35, 103, 127, and 138 are amended as follows:

PART 35—PROGRAM FRAUD CIVIL REMEDIES

■ 1. The authority citation for part 35 continues to read as follows:

Authority: 22 U.S.C. 2651a; 31 U.S.C. 3801 *et seq.;* Pub. L. 114–74, 129 Stat. 584.

§ 35.3 [Amended]

■ 2. In § 35.3:
■ a. Remove ''$11,181'' and add in its place ''$11,463'', wherever it occurs.
■ b. In paragraph (f), remove ''$335,443'' and add in its place ''$343,903''.

PART 103—REGULATIONS FOR IMPLEMENTATION OF THE CHEMICAL WEAPONS CONVENTION AND THE CHEMICAL WEAPONS CONVENTION IMPLEMENTATION ACT OF 1998 ON THE TAKING OF SAMPLES AND ON ENFORCEMENT OF REQUIREMENTS CONCERNING RECORDKEEPING AND INSPECTIONS

■ 3. The authority citation for part 103 continues to read as follows:

Authority: 22 U.S.C. 2651a; 22 U.S.C. 6701 *et seq.;* Pub. L. 114–74, 129 Stat. 584.

§ 103.6 [Amended]

■ 4. Amend § 103.6 by removing ''$37,601'' and adding in its place ''$38,549'' in paragraph (a)(1) and removing ''$7,520'' and adding in its place ''$7,710'' in paragraph (a)(2).

PART 127—VIOLATIONS AND PENALTIES

■ 5. The authority citation for part 127 continues to read as follows:

Authority: Sections 2, 38, and 42, Pub. L. 90–629, 90 Stat. 744 (22 U.S.C. 2752, 2778, 2791); 22 U.S.C. 401; 22 U.S.C. 2651a; 22 U.S.C. 2779a; 22 U.S.C. 2780; E.O. 13637, 78 FR 16129; Pub. L. 114–74, 129 Stat. 584.

§ 127.10 [Amended]

■ 6. Section 127.10 is amended as follows:
■ a. In paragraph (a)(1)(i), remove ''$1,134,602'' and add in its place ''$1,163,217'';
■ b. In paragraph (a)(1)(ii), remove ''$824,959'' and add in its place ''$845,764''; and
■ c. In paragraph (a)(1)(iii), remove ''$981,935'' and add in its place ''$1,006,699''.

PART 138—RESTRICTIONS ON LOBBYING

■ 7. The authority citation for part 138 continues to read as follows:

Authority: 22 U.S.C. 2651a; 31 U.S.C. 1352; Pub. L. 114–74, 129 Stat. 584.

§ 138.400 [Amended]

■ 8. In § 138.400:
■ a. Remove ''$19,639'' and ''$196,387'' and add in their place ''$20,134'' and ''$201,340'', respectively, wherever they occur.
■ b. In paragraph (e), remove ''$19,322'' and add in its place ''$19,809''.

Dated: February 27, 2019.

Alicia Frechette,

Executive Director, Office of the Legal Adviser and Bureau of Legislative Affairs, Department of State.

[FR Doc. 2019–05158 Filed 3–18–19; 8:45 am]

BILLING CODE 4710–10–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9851]

RIN 1545–BN55

Guidance Under Section 851 Relating to Investments in Stock and Securities

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document provides final regulations relating to the income test used to determine whether a corporation may qualify as a regulated investment company (RIC) for Federal income tax purposes. These final regulations provide guidance to corporations that intend to qualify as RICs.

DATES:

Effective date: These regulations are effective on March 19, 2019.

Applicability date: For the date of applicability, see § 1.851–2(d).

FOR FURTHER INFORMATION CONTACT: Matthew Howard at (202) 317–7053 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

This document contains amendments to the Income Tax Regulations (26 CFR part 1) relating to RICs. Section 851 of the Internal Revenue Code (Code) sets forth requirements for qualifying as a RIC.

On September 28, 2016, a notice of proposed rulemaking (REG–123600–16) was published in the **Federal Register** (81 FR 66576) under section 851. No public hearing was requested or held. Written or electronic comments responding to the notice of proposed rulemaking were received. After consideration of all the comments, the proposed regulations are adopted as revised by this Treasury decision containing final regulations. The revisions to the proposed regulations are discussed in the Summary of Comments and Explanation of Revisions.

Summary of Comments and Explanation of Revisions

In response to the notice of proposed rulemaking, the IRS received five written comments that are available for public inspection at *www.regulations.gov* or upon request.

A. Revisions Due to Statutory Changes

The notice of proposed rulemaking proposed revisions to § 1.851–2(b)(1),

which had been published in the **Federal Register** (25 FR 11910) on November 26, 1960, as part of TD 6500 (1960 final regulations). The proposed revisions would conform § 1.851–2(b)(1) to several changes to the statutory text of section 851(b)(2) enacted after the 1960 final regulations were published. *See* Public Law 95–345, 2(a)(3), 92 Stat. 481, 481 (1978); Tax Reform Act of 1986, Public Law 99–514, 653(b), 100 Stat. 2085, 2298 (1986); Taxpayer Relief Act of 1997, Public Law 105–34, 1271(a), 111 Stat. 788, 1036 (1997). No comments were received on these proposed revisions. Accordingly, the final regulations adopt the revisions to § 1.851–2(b)(1) as proposed.

B. Defining Securities

In the notice of proposed rulemaking, the Department of the Treasury (Treasury Department) and the IRS determined that the IRS should no longer issue private letter rulings on questions relating to the treatment of a corporation as a RIC that require a determination of whether a financial instrument or position is a security under the Investment Company Act of 1940, Public Law 76–768, 54 Stat. 789 (codified as amended at 15 U.S.C. 80a–1—80a–64 (2016)) (1940 Act). Contemporaneously with the publication of the notice of proposed rulemaking, the Treasury Department and the IRS issued Rev. Proc. 2016–50 (2016–43 I.R.B. 522), which provides that the IRS ordinarily will not issue rulings or determination letters on any issue relating to the treatment of a corporation as a RIC that requires a determination of whether a financial instrument or position is a security under the 1940 Act. One commenter recommended that the IRS not add this issue to the no-rule list and that the IRS continue to consider ruling requests in situations in which the status of an investment as a security under section 2(a)(36) of the 1940 Act is sufficiently clear under the language of the 1940 Act or under relevant guidance from the SEC. In issuing the notice of proposed rulemaking and Rev. Proc. 2016–50, the Treasury Department and the IRS considered the issues, the resource constraints of the IRS, and the jurisdiction of the SEC under the 1940 Act and determined that the IRS ordinarily should not issue rulings that require a determination by the IRS of whether a financial instrument or position is a security under the 1940 Act. If the security status of an instrument is sufficiently clear under the 1940 Act, or if the SEC has issued relevant guidance, any other requested ruling may be considered by the IRS subject to other limitations applicable to all ruling requests. See, for example, section 6 of Rev. Proc. 2019–1 (2019–1 I.R.B. 1, 18). The IRS therefore declines to adopt the suggestion and has continued to include the issue described in Rev. Proc. 2016–50 in the list of areas in which rulings or determinations letters will not ordinarily be issued. See, for example, section 4.01(44) of Rev. Proc. 2019–3 (2019–1 I.R.B. 130, 140).

In the notice of proposed rulemaking, the Treasury Department and the IRS also requested comments as to whether Rev. Rul. 2006–1 (2006–1 C.B. 261), Rev. Rul. 2006–31 (2006–1 C.B. 1133), and other previously issued guidance involving determinations of whether a financial instrument or position held by a RIC is a security under the 1940 Act should be withdrawn. Commenters recommended that Rev. Rul. 2006–1 and Rev. Rul. 2006–31 not be withdrawn because RICs rely on those rulings to invest with confidence in certain derivatives on stocks and securities. The commenters suggested that withdrawal of those rulings would create confusion and uncertainty with respect to investments by a RIC. After consideration of the comments, the Treasury Department and the IRS have decided not to withdraw the revenue rulings at this time.

C. Inclusions Under Section 951(a)(1) or 1293(a)

In certain circumstances, a U.S. person may be required under section 951(a)(1) or 1293(a) to include in taxable income certain earnings of a foreign corporation in which the U.S. person holds an interest, without regard to whether the foreign corporation makes a distribution to the U.S. person. The Tax Reduction Act of 1975, Public Law 94–12, 602, 89 Stat. 26, 58 (1975 Act), substantially increased the overall amount of these inclusions. Because these inclusions are not dividends (even if accompanied by a corresponding distribution), they would have been non-qualifying gross income for RICs. However, the same subsection of the 1975 Act that increased the amount of inclusions also amended section 851(b). This amendment provided that an inclusion under section 951 was treated as a dividend (and therefore qualifying income for purposes of section 851(b)(2)) if the inclusion was accompanied by a distribution out of the earnings and profits of the taxable year that are attributable to the amounts so included. The Tax Reform Act of 1986, Public Law 99–514, 1235, 100 Stat. 2085, 2575 (1986 Act), provided the same dividend treatment for amounts included in income under section 1293(a). The current version of the language added by the 1975 and 1986 amendments provides:

> For purposes of [section 851(b)(2)], there shall be treated as dividends amounts included in gross income under section 951(a)(1)(A) or 1293(a) for the taxable year to the extent that, under section 959(a)(1) or 1293(c) (as the case may be), there is a distribution out of the earnings and profits of the taxable year which are attributable to the amounts so included.

The 1986 Act also added to the description of a RIC's qualifying income ''other income (including but not limited to gains from options, futures or forward contracts) derived with respect to its business of investing in . . . stock, securities, or currencies.''

The amendments to section 851(b) by the 1975 Act and the 1986 Act unambiguously condition dividend treatment of an inclusion under section 951(a)(1)(A) or 1293(a) on a distribution from the foreign corporation's earnings and profits attributable to the amount included. Absent a distribution, there is no support in the Code for treating an inclusion under section 951(a)(1)(A) or 1293(a) as a dividend under section 851. The proposed regulations would, therefore, clarify that an inclusion under section 951(a)(1)(A) or 1293(a) is treated as a dividend for purposes of section 851(b)(2) only to the extent that the distribution requirement in section 851(b) is met. All five commenters acknowledged that the distribution requirement for dividend treatment in the proposed regulations is consistent with the statutory language in section 851(b). Accordingly, the final regulations adopt the clarification of the distribution requirement as proposed.

The proposed regulations, however, also would provide that dividend treatment is the only manner in which an inclusion under section 951(a)(1) or 1293(a) may be qualifying income. That is, under the proposed regulations, for purposes of section 851(b)(2) neither of these inclusions would be other income derived with respect to a RIC's business of investing in stock, securities, or currencies (Non-qualifying Income Proposal). Commenters unanimously recommended that the Treasury Department and the IRS exclude the Non-qualifying Income Proposal from the final regulations. Commenters noted that some RICs have no ability to control when, or whether, distributions are made and may have income inclusions in excess of available or allowable distributions.

Commenters also suggested that the Non-qualifying Income Proposal would produce inconsistent results. For example, if a RIC has income inclusions

with respect to a passive foreign investment company (PFIC) as a result of making a mark-to-market election under section 1296 with respect to the PFIC, the RIC would have qualifying income under section 851(b). See section 1296(h), which specifically treats that income as a dividend even though there has been no distribution. In contrast, if the RIC had made a qualified electing fund election under section 1293 with respect to a PFIC, then the Non-qualifying Income Proposal would prevent income inclusions with respect to that PFIC from being qualifying income.

The Treasury Department and the IRS have carefully considered the comments and recognize that the Non-qualifying Income Proposal creates an unintended effect on the RIC income test of section 851(b)(2). For example, certain types of income, such as interest and dividends, would be considered qualifying income if earned directly by a RIC. These types of income, however, would not be qualifying income when received by a controlled foreign corporation or PFIC and included in a RIC's income under section 951(a)(1) or 1293(a), unless there is a corresponding distribution. Accordingly, the Treasury Department and the IRS have decided not to include the Non-qualifying Income Proposal in these final regulations.

One commenter further recommended that the final regulations treat inclusions under sections 951(a)(1)(A) and 1293(a) derived with respect to a RIC's business of investing in stock, securities, or currencies as other qualifying income for purposes of the RIC income test of section 851(b)(2) (Qualifying Income Proposal). The Treasury Department and the IRS recognize that inclusions under sections 951(a)(1) and 1293(a) with respect to which there are no corresponding distributions may be accelerations of income derived from stock that otherwise would be recognized as a dividend or as gain from the sale or other disposition of stock. The Qualifying Income Proposal recommended by the commenter would treat these inclusions as qualifying income for purposes of section 851(b)(2). That is, it would apply to inclusions with respect to which there are no corresponding contemporaneous distributions and which otherwise would not be treated as dividends even though those inclusions are connected to a RIC's business of investing in stock, securities, or currencies. After further consideration of the issues raised by the commenter and the provisions in ''An Act to provide for reconciliation pursuant to titles II and V of the concurrent resolution on the budget for fiscal year 2018,'' Public Law 115–97, title 1, § 11000, 131 Stat. 2054 (Dec. 22, 2017), affecting the taxation of income earned outside of the United States, the Treasury Department and the IRS adopt the Qualifying Income Proposal in the final regulations.

Special Analyses

This regulation is not subject to review under section 6(b) of Executive Order 12866 pursuant to the Memorandum of Agreement (April 11, 2018) between the Treasury Department and the Office of Management and Budget regarding review of tax regulations.

Because these regulations do not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Internal Revenue Code, the notice of proposed rulemaking preceding these regulations was submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business, and no comments were received.

Statement of Availability of IRS Documents

The IRS revenue procedures and revenue rulings cited in this document are published in the Internal Revenue Bulletin (or Cumulative Bulletin) and are available from the Superintendent of Documents, U.S. Government Publishing Office, Washington, DC 20402, or by visiting the IRS website at *www.irs.gov.*

Drafting Information

The principal author of these final regulations is Matthew Howard, Office of Associate Chief Counsel (Financial Institutions and Products). However, other personnel from the Treasury Department and the IRS participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 1 is amended as follows:

PART 1—INCOME TAXES

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

Authority: 26 U.S.C. 7805 * * *

■ **Par. 2.** Section 1.851–2 is amended by revising paragraphs (b)(1) and (b)(2)(i), and adding paragraphs (b)(2)(iii) and (d) to read as follows:

§ 1.851–2 Limitations.

* * * * *

(b) * * *

(1) *General rule.* A corporation will not be a regulated investment company for a taxable year unless 90 percent of its gross income for that year is income described in paragraph (b)(1)(i) or (ii) of this section. Any loss from the sale or other disposition of stock or securities is not taken into account in the gross income computation.

(i) *Gross income amounts.* Income is described in this paragraph (b)(1)(i) if it is gross income derived from:

(A) Dividends;

(B) Interest;

(C) Payments with respect to securities loans (as defined in section 512(a)(5));

(D) Gains from the sale or other disposition of stocks or securities (as defined in section 2(a)(36) of the Investment Company Act of 1940, as amended);

(E) Gains from the sale or other disposition of foreign currencies; or

(F) Other income (including but not limited to gains from options, futures, or forward contracts) derived with respect to a regulated investment company's business of investing in such stock, securities, or currencies.

(ii) *Income from a publicly traded partnership.* Income is described in this paragraph (b)(1)(ii) if it is net income derived from an interest in a qualified publicly traded partnership (as defined in section 851(h)).

(2) * * *

(i) For purposes of section 851(b)(2)(A) and paragraph (b)(1)(i)(A) of this section, amounts included in gross income for the taxable year under section 951(a)(1)(A) or 1293(a) are treated as dividends only to the extent that, under section 959(a)(1) or 1293(c) (as the case may be), there is a distribution out of the earnings and profits of the taxable year that are attributable to the amounts included in gross income for the taxable year under section 951(a)(1)(A) or 1293(a). For allocation of distributions to earnings and profits of foreign corporations, see § 1.959–3.

* * * * *

(iii) If an amount is included in gross income under section 951(a)(1) or 1293(a) and is derived with respect to a corporation's business of investing in stock, securities, or currencies then the amount is other income described in section 851(b)(2)(A) and paragraph (b)(1)(i)(F) of this section. Notwithstanding paragraph (d) of this

section, a taxpayer may rely on the rule in this paragraph (b)(2)(iii) for taxable years that begin after September 28, 2016.

* * * * *

(d) *Applicability date.* The rules in paragraphs (b)(1) and (b)(2)(i) and (iii) of this section apply to taxable years that begin after June 17, 2019.

Kirsten Wielobob,

Deputy Commissioner for Services and Enforcement.

Approved: February 15, 2019,

David J. Kautter,

Assistant Secretary of the Treasury (Tax Policy).

[FR Doc. 2019–05130 Filed 3–18–19; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF DEFENSE

Department of the Army

32 CFR Part 542

[Docket ID: USA–2018–HQ–0018]

RIN 0702–AA89

Schools and Colleges

AGENCY: Department of the Army, DoD.

ACTION: Final rule.

SUMMARY: This final rule removes DoD's regulation concerning policies for conducting the Army's Junior Reserve Officers' Training Corps (JROTC) Program in high schools. This applies to the program given at high school level institutions. This part conveys internal Army policy and procedures, and is unnecessary.

DATES: This rule is effective on March 19, 2019.

FOR FURTHER INFORMATION CONTACT: LTC Mark Rea at 703–695–9262.

SUPPLEMENTARY INFORMATION: It has been determined that publication of this CFR part removal for public comment is impracticable, unnecessary, and contrary to public interest since it is based on removing DoD internal policies and procedures that are publicly available on the Department's issuance website.

DoD internal guidance will continue to be published in Army Regulation 145–2, ''Junior Reserve Officers' Training Corps Program: Organization, Administration, Operation and Support,'' available at *https://armypubs.army.mil/ProductMaps/PubForm/AR.aspx.*

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

List of Subjects in 32 CFR Part 542

Elementary and secondary education.

PART 542—[REMOVED]

■ Accordingly, by the authority of 5 U.S.C. 301, 32 CFR part 542 is removed.

Brenda S. Bowen,

Army Federal Register Liaison Officer.

[FR Doc. 2019–05135 Filed 3–18–19; 8:45 am]

BILLING CODE 5001–03–P

DEPARTMENT OF DEFENSE

Department of the Army

32 CFR Part 562

[Docket ID: USA–2018–HQ–0019]

RIN 0702–AA76

Reserve Officers' Training Corps

AGENCY: Department of the Army, DoD.

ACTION: Final rule.

SUMMARY: This final rule removes DoD's regulation containing administrative staff instruction and internal policies for conducting the Army's Senior Reserve Officers' Training Corps (SROTC) Program. This applies to the program given at college-level institutions and at the college-level in military junior colleges. This part conveys internal Army policy and procedures and is unnecessary.

DATES: This rule is effective on March 19, 2019.

FOR FURTHER INFORMATION CONTACT: LTC Mark Rea at 703–695–9262.

SUPPLEMENTARY INFORMATION: It has been determined that publication of this CFR part removal for public comment is impracticable, unnecessary, and contrary to public interest since it is based on removing DoD internal policies and procedures that are publicly available on the Department's issuance website. DoD internal guidance will continue to be published in Army Regulation 145–1, ''Senior Reserve Officers' Training Corps Program: Organization, Administration and Training,'' available at *https://armypubs.army.mil/ProductMaps/PubForm/AR.aspx.*

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

List of Subjects in 32 CFR Part 562

Armed forces reserves, colleges and universities.

PART 562—[REMOVED]

■ Accordingly, by the authority of 5 U.S.C. 301, 32 CFR part 562 is removed.

Brenda S. Bowen,

Army Federal Register Liaison Officer.

[FR Doc. 2019–05134 Filed 3–18–19; 8:45 am]

BILLING CODE 5001–03–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2019–0020]

RIN 1625–AA00

Safety Zone; Tanapag Harbor, Saipan, CNMI

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for navigable waters within Tanapag Harbor, Saipan. This safety zone will encompass the designated swim course for the Escape from Managaha swim event in the waters of Tanapag Harbor, Saipan, Commonwealth of the Northern Mariana Islands. This action is necessary to protect all persons and vessels participating in this marine event from potential safety hazards associated with vessel traffic in the area. Race participants, chase boats, and organizers of the event will be exempt from the safety zone. Entry of persons or vessels into the safety zone is prohibited unless authorized by the Captain of the Port (COTP) Guam.

DATES: This rule is effective from 6:30 a.m. through 8:30 a.m. on March 31, 2019.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov,* type USCG–2019–0020 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 Chief Petty Officer Todd Wheeler, Sector Guam, U.S. Coast Guard, by telephone at (671) 355–4866, or email at *WWMGuam@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background Information and Regulatory History

The purpose of this rule is to ensure the safety of the participants and the navigable waters in the safety zone before, during, and after the scheduled swim event. In response, on January 31, 2019, the Coast Guard published an NPRM titled Safety Zone; Tanapag Harbor, Saipan, CNMI (84 FR 621–623). There we stated why we issued the NPRM, and invited comments on our proposed regulatory action related to this safety zone. During the comment period that ended March 4, 2019, we received no comments.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. The recent government shutdown delayed the publication of the NPRM, which is causing this temporary final rule to be effective less than 30 days after publication.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under its authority in 46 U.S.C 70034 (previously 33 U.S.C. 1231). The Captain of the Port (COTP) Guam has determined that potential hazards associated with the exercise will be a safety concern. The purpose of this rule is to protect all persons and vessels participating in this marine event from potential safety hazards associated with vessel traffic in the area.

IV. Discussion of Comments, Changes, and the Rule

As noted above, we received no comments on our NPRM published January 31, 2019. There are no changes in the regulatory text of this rule from the proposed rule in the NPRM.

This rule establishes a safety zone from 6:30 until 8:30 a.m. on March 31, 2019. The safety zone will cover all navigable waters within 100-yard radius of race participants in Tanapag Harbor, Saipan. This rulemaking would prohibit persons and vessels not involved in the event from being in the safety zone unless authorized by the COTP or a designated representative.

V. Regulatory Analyses

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

A. Regulatory Planning and Review

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

This regulatory action determination is based on the size, location, duration, and time-of-day of the safety zone. Vessel traffic will be able to safely transit around this safety zone, which will impact a small designated area of Tanapag Harbor for 2 hours. Moreover, the Coast Guard will issue a Broadcast Notice to Mariners via VHF–FM marine channel 16 about the zone, and the rule allows vessels to seek permission to enter the zone.

B. Impact on Small Entities

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

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

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

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

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

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

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the

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

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a safety zone lasting 2 hours that will prohibit entry within 100-yards of swim participants. It is categorically excluded from further review under paragraph L63(a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 01. A Record of Environmental Consideration supporting this determination is available in the docket where indicated under **ADDRESSES**.

G. Protest Activities

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

Authority: 33 U.S.C. 70034, 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.T14–0020 to read as follows:

§ 165.T14–0020 Safety Zone; Tanapag Harbor, Saipan, CNMI.

(a) *Location.* The following area, within the Guam Captain of the Port (COTP) Zone (See 33 CFR 3.70–15), all navigable waters within a 100-yard radius of race participants in Tanapag Harbor, Saipan. Race participants, chase boats and organizers of the event will be exempt from the safety zone.

(b) *Effective dates.* This rule is effective from 6:30 a.m. to 8:30 a.m. on March 31, 2019.

(c) *Enforcement.* Any Coast Guard commissioned, warrant, or petty officer, and any other COTP representative permitted by law, may enforce this temporary safety zone.

(d) *Waiver.* The COTP may waive any of the requirements of this rule for any person, vessel, or class of vessel upon finding that application of the safety zone is unnecessary or impractical for the purpose of maritime security.

(e) *Penalties.* Vessels or persons violating this rule are subject to the penalties set forth in 46 U.S.C. 1232 and 46 U.S.C. 192.

Dated: March 14, 2019.

Christopher M. Chase,

Captain, U.S. Coast Guard, Captain of the Port, Guam.

[FR Doc. 2019–05094 Filed 3–18–19; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF EDUCATION

34 CFR Parts 668, 674, 682, and 685

[Docket ID ED–2015–OPE–0103]

RIN 1840–AD19

Student Assistance General Provisions, Federal Perkins Loan Program, Federal Family Education Loan Program, William D. Ford Federal Direct Loan Program, and Teacher Education Assistance for College and Higher Education Grant Program

AGENCY: Office of Postsecondary Education, Department of Education.

ACTION: Final rule; correction; announcement of effective date.

SUMMARY: Consistent with the decisions of the U.S. District Court for the District of Columbia, this document memorializes that selected provisions of these final regulations took effect. Due to more recently-effective amendments, the Department must also correct affected amendatory instructions to ensure their incorporation into the CFR.

DATES: As of October 16, 2018, the corrections to the amendatory instructions and the amendments to § 668.14(b)(30), (31), and (32); § 668.41(h) and (i); § 668.71(c); § 668.91(a)(3); § 668.94(h), (i) and (j); § 668.171; § 668.175(c), (d), (f), and (h); part 668, subpart L, appendix C; § 674.33(g)(3) and (8); § 682.202(b)(1); § 682.211(i)(7); § 682.402(d)(3), (d)(6)(ii)(B)(*1*) and (*2*), (d)(6)(ii)(F) introductory text, (d)(6)(ii)(F)(*5*), (d)(6)(ii)(G) through (K), (d)(7)(ii) and (iii), (d)(8), and (e)(6)(iii); § 682.405(b)(4)(ii); § 682.410(b)(4) and (b)(6)(viii); § 685.200(f)(3)(v) and (f)(4)(iii); § 685.205(b)(6); § 685.206(c); § 685.212(k); § 685.214(c)(2) and (f)(4) through (7); § 685.215(a)(1), (c)(1) through (8), and (d); § 685.222; part 685, subpart B, appendix A; § 685.300(b)(11) and (12) and (d) through (i); and § 685.308(a), published November 1, 2016, at 81 FR 75926, and delayed June 16, 2017 (82 FR 27621), October 24, 2017 (82 FR 49114), and February 14, 2018 (83 FR 6458), are effective.

FOR FURTHER INFORMATION CONTACT: Barbara Hoblitzell, U.S. Department of Education, 400 Maryland Ave. SW, Mail stop 6W247, Washington, DC 20202. Telephone: (202) 453–7583. Email at: *Barbara.Hoblitzell@ed.gov.*

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: The original ''effective date'' for these provisions was July 1, 2017. 81 FR 75926. To the extent the provisions explicitly use this date as a benchmark (*e.g.,* § 685.206(c)(''For loans first disbursed prior to July 1, 2017, the borrower may assert a borrower defense under this paragraph'')), the Department will use July 1, 2017 as the relevant date. Because the provisions referenced above did not actually take effect on July 1, 2017, the Department is, concurrently with this announcement, releasing an Electronic Announcement available at *https://ifap.ed.gov/eannouncements/030719GuidConcernProv2016BorrowerDefensetoRypmtRegs.html* to clarify the responsibilities of institutions with respect to the Financial Responsibility, Class Action Bans, and Predispute Arbitration Agreements Provisions, and Repayment Rate Disclosure sections of the final regulations, which are now effective.

Background: On May 24, 2017, the California Association of Private Postsecondary Schools (CAPPS) filed a Complaint and Prayer for Declaratory and Injunctive Relief in the United States District Court for the District of Columbia (Court) challenging the final regulations in their entirety, and in particular those provisions of the regulations pertaining to the standard and process for the Department to adjudicate borrower defense claims, requirements pertaining to financial

responsibility standards, provisions requiring proprietary institutions to provide warnings about their students' loan repayment rates, and prohibitions against institutions including arbitration or class action waivers in their agreements with students. Complaint and Prayer for Declaratory and Injunctive Relief, *California Association of Private Postsecondary Schools* v. *DeVos,* No. 17–cv–00999 (D.D.C. May 24, 2017). The provisions in the challenged regulations were scheduled to become effective on July 1, 2017.

In light of the pending litigation, on June 16, 2017, the Department published a notification of the partial delay of effective dates (82 FR 27621) under section 705 of the APA (5 U.S.C. 705), to delay the effectiveness of certain provisions of the final regulations until the legal challenge is resolved (705 Notice). Subsequently, on October 24, 2017, the Department issued an interim final rule (IFR) delaying the effective date of those provisions of the final regulations to July 1, 2018 (82 FR 49114), and a notice of proposed rulemaking to further delay the effective date to July 1, 2019 (82 FR 49155). On February 14, 2018, the Department published a final rule delaying the regulations' effective date until July 1, 2019 (83 FR 6458) (Final Delay Rule).

Following issuance of the 705 Notice, plaintiffs Meaghan Bauer and Stephano Del Rose filed a complaint challenging the validity of the 705 Notice. Complaint for Declaratory and Injunctive Relief, *Bauer* v. *DeVos,* No.17–cv–1330 (D.D.C. Jul. 6, 2017). The attorneys general of 18 states and the District of Columbia also filed a complaint challenging the validity of the 705 Notice. Complaint for Declaratory and Injunctive Relief, *Massachusetts* v. *U.S. Dep't of Educ.,* No. 17–cv–01331 (D.D.C. Jul. 6, 2017). Plaintiffs in both cases subsequently amended their complaints to include the IFR and the Final Delay Rule, and these cases were consolidated by the Court.

On September 12, 2018, the Court issued its Memorandum Opinion and Order in the consolidated matter, finding the challenge to the IFR was moot, declaring the 705 Notice and the Final Delay Rule invalid, and convening a status conference to consider appropriate remedies. *Bauer* v. *DeVos,* No. 17–cv–1330 (D.D.C. Sept. 12, 2018). Subsequently, on September 17, 2018, the Court issued its Memorandum Opinion and Order immediately vacating the Final Delay Rule and vacating the 705 Notice but suspending its vacatur of the 705 Notice until 5:00 p.m. on October 12, 2018, to allow for renewal and briefing of CAPPS' motion for a preliminary injunction in the *CAPPS* v. *DeVos* case and to give the Department an opportunity to remedy the deficiencies with the 705 Notice. *Bauer,* No. 17–cv–1330 (D.D.C. Sept. 17, 2018). The Department decided not to issue a revised 705 notice. On October 12, 2018, the Court extended the suspension of its vacatur until noon on October 16, 2018. Minute Order (Oct. 12, 2018), *Bauer,* No. 17–cv–1330. On October 16, 2018, the Court denied CAPPS' motion for a preliminary injunction, ending the suspension of the vacatur. Memorandum Opinion and Order, *CAPPS,* No. 17–cv–0999 (Oct. 16, 2018).

Regulations: With this action by the Court, the final regulations published November 1, 2016, at 81 FR 75926, listed below took effect. Information clarifying the responsibilities of institutions with respect to the now-effective provisions is available in the Electronic Announcement, *https://ifap.ed.gov/eannouncements/030719GuidConcernProv2016BorrowerDefensetoRypmtRegs.html,* the Department is releasing concurrently with this announcement.

- Section 668.14(b)(30), (31), and (32) Program participation agreement.
- Section 668.41(h) and (i) Reporting and disclosure of information.
- Section 668.71(c) Scope and special definitions.
- Section 668.90(a)(3) Initial and final decisions.
- Section 668.93(h), (i), and (j) Limitation.
- Section 668.171 General.
- Section 668.175(c), (d), (f), and (h) Alternative standards and requirements.
- Part 668, subpart L, appendix C.
- Section 674.33(g)(3) and (8) Repayment.
- Section 682.202(b)(1) Permissible charges by lenders to borrowers.
- Section 682.211(i)(7) Forbearance.
- Section 682.402(d)(3), (d)(6)(ii)(B)(*1*) and (*2*), (d)(6)(ii)(F) introductory text, (d)(6)(ii)(F)(*5*), (d)(6)(ii)(G) through (K), (d)(7)(ii) and (iii), (d)(8), and (e)(6)(iii) Death, disability, closed school, false certification, unpaid refunds, and bankruptcy payments.
- Section 682.405(b)(4)(ii) Loan rehabilitation agreement.
- Section 682.410(b)(4) and (b)(6)(viii) Fiscal, administrative, and enforcement requirements.
- Section 685.200(f)(3)(v) and (f)(4)(iii) Borrower eligibility.
- Section 685.205(b)(6) Forbearance.
- Section 685.206(c) Borrower responsibilities and defenses.
- Section 685.212(k) Discharge of a loan obligation.
- Section 685.214(c)(2) and (f)(4) through (7) Closed school discharge.
- Section 685.215(a)(1), (c)(1) through (8), and (d) Discharge for false certification of student eligibility or unauthorized payment.
- Section 685.222 Borrower defenses.
- Part 685, subpart B, appendix A Examples of borrower relief.
- Section 685.300(b)(11), (b)(12), and (d) through (i) Agreements between an eligible school and the Secretary for participation in the Direct Loan Program.
- Section 685.308(a) Remedial actions.

Note: Section 668.90 has been redesignated as § 668.91 and § 668.93 has been redesignated as § 668.94 pursuant to the borrower defense procedural rule, published January 19, 2017 at 82 FR 6253 (the borrower defense procedural rule), so the Department must correct the amendatory instructions from the November 2016 rule to reflect the newly redesignated section numbers.

Accessible Format: Individuals with disabilities may obtain this document in an accessible format (*e.g.,* braille, large print, audiotape, or compact disc) on request to the contact person listed under **FOR FURTHER INFORMATION CONTACT**.

Electronic Access to this Document: The official version of this document is the document published in the **Federal Register**. You may access the official edition of the **Federal Register** and the Code of Federal Regulations via the Federal Digital System at: *www.govinfo.gov.* At this site, you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Portable Document Format (PDF). To use PDF, you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at: *www.Federal Register.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Corrections

In FR Doc. 2016–25448, appearing on page 75926 in the **Federal Register** of Tuesday, November 1, 2016, the following corrections are made:

§ 668.90 [Corrected]

■ 1. On page 76072, in the first column, in amendatory instruction 7, ''Section 668.90'' is corrected to read ''Section

688.91'' and ''§ 668.90'' is corrected to read ''§ 668.91''.

§ 668.93 [Corrected]

■ 2. On page 76072, in the third column, in amendatory instruction 8, ''Section 668.93'' is corrected to read ''Section 688.94'' and ''§ 668.93'' is corrected to read ''§ 668.94''.

Dated: March 12, 2019.

Betsy DeVos,

Secretary of Education.

[FR Doc. 2019–04887 Filed 3–18–19; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 64

[Docket ID FEMA–2019–0003; Internal Agency Docket No. FEMA–8571]

Suspension of Community Eligibility

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Final rule.

SUMMARY: This rule identifies communities where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP) that are scheduled for suspension on the effective dates listed within this rule because of noncompliance with the floodplain management requirements of the program. If the Federal Emergency Management Agency (FEMA) receives documentation that the community has adopted the required floodplain management measures prior to the effective suspension date given in this rule, the suspension will not occur and a notice of this will be provided by publication in the **Federal Register** on a subsequent date. Also, information identifying the current participation status of a community can be obtained from FEMA's Community Status Book (CSB). The CSB is available at *https://www.fema.gov/national-flood-insurance-program-community-status-book.*

DATES: The effective date of each community's scheduled suspension is the third date (''Susp.'') listed in the third column of the following tables.

FOR FURTHER INFORMATION CONTACT: If you want to determine whether a particular community was suspended on the suspension date or for further information, contact Adrienne L. Sheldon, PE, CFM, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 400 C Street SW, Washington, DC 20472, (202) 212–3966.

SUPPLEMENTARY INFORMATION: The NFIP enables property owners to purchase Federal flood insurance that is not otherwise generally available from private insurers. In return, communities agree to adopt and administer local floodplain management measures aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits the sale of NFIP flood insurance unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed in this document no longer meet that statutory requirement for compliance with program regulations, 44 CFR part 59. Accordingly, the communities will be suspended on the effective date in the third column. As of that date, flood insurance will no longer be available in the community. We recognize that some of these communities may adopt and submit the required documentation of legally enforceable floodplain management measures after this rule is published but prior to the actual suspension date. These communities will not be suspended and will continue to be eligible for the sale of NFIP flood insurance. A notice withdrawing the suspension of such communities will be published in the **Federal Register**.

In addition, FEMA publishes a Flood Insurance Rate Map (FIRM) that identifies the Special Flood Hazard Areas (SFHAs) in these communities. The date of the FIRM, if one has been published, is indicated in the fourth column of the table. No direct Federal financial assistance (except assistance pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act not in connection with a flood) may be provided for construction or acquisition of buildings in identified SFHAs for communities not participating in the NFIP and identified for more than a year on FEMA's initial FIRM for the community as having flood-prone areas (section 202(a) of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4106(a), as amended). This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column. The Administrator finds that notice and public comment procedures under 5 U.S.C. 553(b), are impracticable and unnecessary because communities listed in this final rule have been adequately notified.

Each community receives 6-month, 90-day, and 30-day notification letters addressed to the Chief Executive Officer stating that the community will be suspended unless the required floodplain management measures are met prior to the effective suspension date. Since these notifications were made, this final rule may take effect within less than 30 days.

National Environmental Policy Act. FEMA has determined that the community suspension(s) included in this rule is a non-discretionary action and therefore the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) does not apply.

Regulatory Flexibility Act. The Administrator has determined that this rule is exempt from the requirements of the Regulatory Flexibility Act because the National Flood Insurance Act of 1968, as amended, Section 1315, 42 U.S.C. 4022, prohibits flood insurance coverage unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed no longer comply with the statutory requirements, and after the effective date, flood insurance will no longer be available in the communities unless remedial action takes place.

Regulatory Classification. This final rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 13132, Federalism. This rule involves no policies that have federalism implications under Executive Order 13132.

Executive Order 12988, Civil Justice Reform. This rule meets the applicable standards of Executive Order 12988.

Paperwork Reduction Act. This rule does not involve any collection of information for purposes of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

List of Subjects in 44 CFR Part 64

Flood insurance, Floodplains.

Accordingly, 44 CFR part 64 is amended as follows:

PART 64—[AMENDED]

■ 1. The authority citation for part 64 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.;* Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp.; p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp.; p. 376.

§ 64.6 [Amended]

■ 2. The tables published under the authority of § 64.6 are amended as follows:

State and location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current effective map date	Date certain Federal assistance no longer available in SFHAs
Region IV				
Alabama:				
Adamsville, City of, Jefferson County	010267	February 23, 1976, Emerg; October 10, 1980, Reg; March 21, 2019, Susp.	March 21, 2019	March 21, 2019.
Albertville, City of, Marshall County	010366	October 13, 1976, Emerg; September 4, 1985, Reg; March 21, 2019, Susp.	.....do *	Do.
Altoona, Town of, Blount and Etowah Counties.	010078	July 15, 1975, Emerg; March 14, 1980, Reg; March 21, 2019, Susp.	.....do	Do.
Birmingham, City of, Jefferson and Shelby Counties.	010116	March 30, 1973, Emerg; March 16, 1981, Reg; March 21, 2019, Susp.	.....do	Do.
Blount County, Unincorporated Areas	010230	July 22, 1987, Emerg; June 17, 1991, Reg; March 21, 2019, Susp.	.....do	Do.
Blountsville, Town of, Blount County	010371	December 3, 2008, Emerg; August 3, 2009, Reg; March 21, 2019, Susp.	.....do	Do.
Boaz, City of, Etowah and Marshall Counties.	010276	July 15, 1975, Emerg; September 4, 1985, Reg; March 21, 2019, Susp.	.....do	Do.
Brookside, Town of, Jefferson County	010118	May 29, 1975, Emerg; February 18, 1981, Reg; March 21, 2019, Susp.	.....do	Do.
Cardiff, Town of, Jefferson County	010119	N/A, Emerg; May 23, 2003, Reg; March 21, 2019, Susp.	.....do	Do.
Center Point, City of, Jefferson County	010445	N/A, Emerg; June 5, 2003, Reg; March 21, 2019, Susp.	.....do	Do.
Clay, City of, Jefferson County	010446	N/A, Emerg; August 18, 2003, Reg; March 21, 2019, Susp.	.....do	Do.
Cleveland, Town of, Blount County	010228	N/A, Emerg; September 9, 2010, Reg; March 21, 2019, Susp.	.....do	Do.
Etowah County, Unincorporated Areas	010077	N/A, Emerg; February 27, 1990, Reg; March 21, 2019, Susp.	.....do	Do.
Fultondale, City of, Jefferson County	010121	June 25, 1975, Emerg; May 5, 1981, Reg; March 21, 2019, Susp.	.....do	Do.
Gardendale, City of, Jefferson County	010269	February 3, 1976, Emerg; November 21, 1980, Reg; March 21, 2019, Susp.	.....do	Do.
Graysville, City of, Jefferson County	010266	February 24, 1975, Emerg; November 21, 1980, Reg; March 21, 2019, Susp.	.....do	Do.
Highland Lake, Town of, Blount County	010019	N/A, Emerg; February 17, 2010, Reg; March 21, 2019, Susp.	.....do	Do.
Jefferson County, Unincorporated Areas.	010217	May 1, 1974, Emerg; February 17, 1982, Reg; March 21, 2019, Susp.	.....do	Do.
Kimberly, City of, Jefferson County	010265	January 16, 1976, Emerg; June 18, 1981, Reg; March 21, 2019, Susp.	.....do	Do.
Morris, Town of, Jefferson County	010264	March 11, 1980, Emerg; June 3, 1986, Reg; March 21, 2019, Susp.	.....do	Do.
Mountain Brook, City of, Jefferson County.	010128	July 2, 1975, Emerg; January 2, 1981, Reg; March 21, 2019, Susp.	.....do	Do.
Mulga, Town of, Jefferson County	010129	October 3, 1975, Emerg; September 19, 1980, Reg; March 21, 2019, Susp.	.....do	Do.
Pinson, City of, Jefferson County	010447	N/A, Emerg; November 10, 2004, Reg; March 21, 2019, Susp.	.....do	Do.
Pleasant Grove, City of, Jefferson County.	010268	January 6, 1976, Emerg; December 19, 1980, Reg; March 21, 2019, Susp.	.....do	Do.
Rosa, Town of, Blount County	010044	N/A, Emerg; March 8, 2013, Reg; March 21, 2019, Susp.	.....do	Do.
Sardis City, Town of, Etowah County	010361	April 7, 1978, Emerg; January 1, 1987, Reg; March 21, 2019, Susp.	.....do	Do.
Snead, Town of, Blount County	010227	May 8, 2008, Emerg; August 3, 2009, Reg; March 21, 2019, Susp.	.....do	Do.
Susan Moore, Town of, Blount County	010122	July 10, 2009, Emerg; August 3, 2009, Reg; March 21, 2019, Susp.	.....do	Do.
Sylvan Springs, Town of, Jefferson County.	010420	N/A, Emerg; April 2, 2013, Reg; March 21, 2019, Susp.	.....do	Do.
Trussville, City of, Jefferson and Saint Clair Counties.	010133	June 26, 1975, Emerg; November 18, 1981, Reg; March 21, 2019, Susp.	.....do	Do.

State and location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current effective map date	Date certain Federal assistance no longer available in SFHAs
Walnut Grove, Town of, Etowah County	010252	June 25, 1975, Emerg; March 16, 1981, Reg; March 21, 2019, Susp.	.....do	Do.
Warrior, City of, Jefferson County	010263	May 12, 1975, Emerg; January 2, 1981, Reg; March 21, 2019, Susp.	.....do	Do.
West Jefferson, Town of, Jefferson County.	010402	N/A, Emerg; July 18, 2016, Reg; March 21, 2019, Susp.	.....do	Do.
Region VI				
Arkansas:				
Atkins, City of, Pope County	050304	August 7, 1975, Emerg; July 6, 1982, Reg; March 21, 2019, Susp.	.....do	Do.
Conway, City of, Faulkner County	050078	October 29, 1974, Emerg; March 18, 1980, Reg; March 21, 2019, Susp.	.....do	Do.
Faulkner County, Unincorporated Areas	050431	September 24, 1990, Emerg; September 27, 1991, Reg; March 21, 2019, Susp.	.....do	Do.
Lonoke County, Unincorporated Areas	050448	N/A, Emerg; March 14, 1994, Reg; March 21, 2019, Susp.	.....do	Do.
Menifee, Town of, Conway County	050266	N/A, Emerg; February 28, 2012, Reg; March 21, 2019, Susp.	.....do	Do.
Morrilton, City of, Conway County	050044	June 6, 1975, Emerg; March 15, 1982, Reg; March 21, 2019, Susp.	.....do	Do.
Oppelo, City of, Conway County	050597	July 26, 1993, Emerg; July 4, 2011, Reg; March 21, 2019, Susp.	.....do	Do.
Plumerville, City of, Conway County	050364	September 15, 1983, Emerg; January 17, 1986, Reg; March 21, 2019, Susp.	.....do	Do.
Ward, City of, Lonoke County	050372	September 8, 1975, Emerg; September 5, 1978, Reg; March 21, 2019, Susp.	.....do	Do.
Wooster, City of, Faulkner County	050302	February 11, 1976, Emerg; September 27, 1991, Reg; March 21, 2019, Susp.	.....do	Do.
Texas:				
Burleson, City of, Johnson and Tarrant Counties.	485459	December 17, 1971, Emerg; November 2, 1973, Reg; March 21, 2019, Susp.	.....do	Do.
Dallas County, Unincorporated Areas ...	480165	September 4, 1970, Emerg; July 19, 1982, Reg; March 21, 2019, Susp.	.....do	Do.
Edgecliff Village, Town of, Tarrant County.	480592	June 5, 1975, Emerg; August 19, 1986, Reg; March 21, 2019, Susp.	.....do	Do.
Southlake, City of, Denton and Tarrant Counties.	480612	September 30, 1974, Emerg; July 5, 1982, Reg; March 21, 2019, Susp.	.....do	Do.
White Settlement, City of, Tarrant County.	480617	May 13, 1975, Emerg; July 17, 1986, Reg; March 21, 2019, Susp.	.....do	Do.

* do = Ditto.
Code for reading third column: Emerg.—Emergency; Reg.—Regular; Susp.—Suspension.

Dated: March 11, 2019.

Eric Letvin,

Deputy Assistant Administrator for Mitigation, Federal Insurance and Mitigation Administration—FEMA Resilience, Department of Homeland Security, Federal Emergency Management Agency.

[FR Doc. 2019–05065 Filed 3–18–19; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF VETERANS AFFAIRS

48 CFR Parts 801, 825, 836, 842, 846, 852, and 853

RIN 2900–AQ18

VA Acquisition Regulation: Construction and Architect-Engineer Contracts

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: The Department of Veterans Affairs (VA) is amending and updating its VA Acquisition Regulation (VAAR) in phased increments to revise or remove any policy superseded by changes in the Federal Acquisition Regulation (FAR), to remove procedural guidance internal to VA into the VA Acquisition Manual (VAAM), and to incorporate any new agency specific regulations or policies. These changes seek to streamline and align the VAAR with the FAR and remove outdated and duplicative requirements and reduce burden on contractors. The VAAM incorporates portions of the removed VAAR as well as other internal agency acquisition policy. VA will rewrite certain parts of the VAAR and VAAM, and as VAAR parts are rewritten, we will publish them in the **Federal Register**. In particular, this rulemaking revises VAAR concerning Construction and Architect-Engineer Contracts, as well as affected parts covering the Department of Veterans Affairs Acquisition Regulations System, Foreign Acquisition, Contract Administration and Audit Services, Quality Assurance, Solicitation Provisions and Contract Clauses, and Forms.

DATES: This rule is effective on April 18, 2019.

FOR FURTHER INFORMATION CONTACT: Mr. Rafael N. Taylor, Senior Procurement Analyst, Procurement Policy and Warrant Management Services, 003A2A, 425 I Street NW, Washington, DC 20001, (202) 382–2787. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On September 7, 2018, VA published a

proposed rule in the **Federal Register** (83 FR 45384) which announced VA's intent to amend regulations for VAAR Case RIN 2900–AQ18 (part 836). In particular, this final rule removes subpart 825.2, Buy American Act—Construction Materials, and the associated prescribed clauses under subpart 825.11, Solicitation Provisions and Contract Clauses, as it is duplicative of the FAR.

In part 836, under 836.203, Government estimate of construction costs, this rule renumbers and retitles the section to 836.203–70, Protection of the independent government estimate—sealed bid, and revises it to more specifically clarify VA procedures to protect the independent government estimate in sealed bid acquisitions when bid openings are held. Section 836.204, Disclosure of the magnitude of construction projects, revises the estimated price ranges to provide a better measure for contractors to gauge estimated construction costs for projects of the National Cemetery Administration and the Office of Construction and Facilities Management.

This rule removes 836.206, Liquidated damages, since the subject matter is adequately covered in the FAR, as well as 836.209, Construction contracts with architect-engineer firms, as it contains internal procedures and moves the coverage to the VAAM. For the same reason, this rule removes 836.213–4, Notice of award, and 836.213–70, Notice to proceed.

This rule removes 836.513, Accident prevention, since the prescribed clause is duplicative of coverage in FAR clause 52.236–1, Accident Prevention, as well as 836.570, Correspondence, as the clause it prescribes, 852.236–76, Correspondence, is being removed. The subject matter will be addressed in the VAAM by directing contracting officers to include this information in a ''Notice to Proceed'' letter to the contractor from the contracting officer.

This rule adds 836.580, Notice to bidders—additive or deductive bid line items, and a prescription requiring the contracting officer to insert the provision 852.236–92, Notice to Bidders—Additive or Deductive Bid Line Items, in invitations for bids when the contracting officer determines that funds may not be available for all the desired construction features at contract award.

This rule adds coverage under VAAR subpart 842.2, Contract Administration Services, and 842.271, Contract clause for Government construction contract administration, to prescribe clause 852.242–70, Government Construction Contract Administration, that describes contract administration functions to be delegated under construction contracts that exceed the micro-purchase threshold for construction. It describes the role of the designated contracting officer performing contract administration, as well as certain functions that are delegated to VA resident engineers, if assigned. It also contains some language found under the previous clause, 852.236–78, Government Supervision.

This rule removes 846.312, Construction contracts, which prescribes clause 852.236–74, Inspection of Construction, as well as the clause.

Under part 852, this rule removes 852.236–74, Inspection of Construction, since VA Master Specifications provide the requirements for performing inspections. This rule also removes 852.236–77, Reference to ''Standards,'' as VA Master Specifications are used in VA contracts. This rule removes 852.236–78, Government Supervision, and adds a revised version at 852.242–70, Government Construction Contract Administration. This rule amends clause 852.236–79, Daily Report of Workers and Materials, by changing the title to ''Contractor Production Report'' and revises the clause to reflect use of VA Form 10101 which is based on industry reporting standards.

In subpart 853.1—General, this rule revises the text of 853.107, Obtaining forms, to provide the current website address where VA forms are obtained now: *https://www.va.gov/vaforms/*. It removes the outdated address for an old VA office and discontinues the outdated practice of requesting forms in hard copy directly from the agency policy office. All forms will now be available online. This rule, under subpart 853.2—Prescription of Forms, revises the list of forms applicable to VAAR part 836 that are used between VA and its contractors, potential offerors or bidders, or the general public.

Technical Non-Substantive Change to the Proposed Rule

This rule makes one technical non-substantive change to correct the amendatory instruction at 801.106 to remove the reference to 852.236–82 through 852.236–84, and its corresponding OMB Control Number.

VA provided a 60-day comment period for the public to respond to the proposed rule. The comment period for the proposed rule ended on November 6, 2018 and VA received no comments. This document adopts as a final rule the proposed rule published in the **Federal Register** on September 7, 2018, with the technical non-substantive change noted above and other minor formatting and/or grammatical edits. This final rule has **Federal Register** administrative format changes in the amendatory text which make no substantive text changes at the affected sections.

Unfunded Mandates

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

Paperwork Reduction Act

This final rule impacts seven existing information collection requirements associated with four Office of Management and Budget (OMB) control number approvals. The actions in this rule result in multiple actions affecting some of these information collections, such as: The outright removal of the information collection; no change in information collection burdens although titles and number of the information collection would be slightly revised; or no change to the existing OMB control number and associated burden.

The Paperwork Reduction Act of 1995 (at 44 U.S.C. 3507) requires that VA consider the impact of paperwork and other information collection burdens imposed on the public. Under 44 U.S.C. 3507(a), an agency may not collect or sponsor the collection of information, nor may it impose an information collection requirement unless it displays a currently valid OMB control number. See also 5 CFR 1320.8(b)(3)(vi).

This final rule contains one provision constituting a collection of information at 48 CFR 836.606–71, Architect-engineer's proposal, concerning use of and prescription for VA Form 10–6298, Architect-Engineer Fee Proposal, which is revised with updated thresholds and FAR citations, as well as an updated form number. Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521), no new collection of information is associated with this provision as a part of this final rule. The information collection requirement for 836.606–71 is currently approved by OMB and has been assigned OMB control number 2900–0208. The burden of this information collection remains unchanged. However, this rule does amend this information collection requirement to

renumber the form currently numbered and titled as VA Form 10–6298, Architect-Engineer Fee Proposal, to now read: VA Form 6298, Architect-Engineer Fee Proposal. Additionally, older dollar thresholds and FAR citations in the form are updated to current levels and correct citations. In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521), OMB has approved the reporting or recordkeeping provisions that are included in the text and form under 836.606–71 cited above against the assigned OMB control number. For the requested administrative amendments to the form, as required by the Paperwork Reduction Act of 1995 (at 44 U.S.C. 3507(d)), VA has submitted this information collection amendment to OMB for its review. Notice of OMB approval for this information collection will be published in a future **Federal Register** document. Other revisions to the associated OMB control number relating to other provisions of this rule are identified separately in this submittal.

This final rule also contains one provision constituting a collection of information at 48 CFR 852.236–72, Performance of Work by the Contractor, that will remain unchanged. Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521), the collection of information associated with this provision remains unchanged. The information collection requirement for 852.236–72 is currently approved by OMB and has been assigned OMB control number 2900–0422. The burden of this information collection remains unchanged. In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521), OMB has approved the reporting or recordkeeping provision that is included in the clause at 852.236–72 cited above and against the assigned OMB control number.

This final rule imposes the following amended information collection requirements to one of the four existing information collection approval numbers associated with this rule. Although this action contains the following provision constituting a collection of information at 48 CFR 852.236–79, under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501–3521), no new collection of information is associated with this provision as a part of this final rule. The information collection requirement for 852.236–79 is currently approved by OMB and has been assigned OMB control number 2900–0208. The burden of this information collection remains unchanged. However, this rule does amend this information collection requirement to prescribe the new form—VA Form 10101, Contractor Production Report. As required by the Paperwork Reduction Act of 1995 (at 44 U.S.C. 3507(d)), VA has submitted this information collection amendment to OMB for its review. Notice of OMB approval for this information collection will be published in a future **Federal Register** document. The currently approved burden remains unchanged.

This action also contains a provision constituting a collection of information at 48 CFR 852.236–80, however, under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501–3521), no new proposed collection of information is associated with this provision as a part of this final rule. The information collection requirement for 852.236–80 is currently approved by OMB and has been assigned OMB control number 2900–0422. The currently approved burden associated with this clause remains unchanged. However, this information collection has been submitted to OMB to amend the information collection requirement to make a minor correction to the title of the clause, as stated in paragraph 1 of the Supporting Statement, to reflect the full name of the clause—''Subcontracts and Work Coordination'' in lieu of an abbreviated title reflected on the Supporting Statement—''Work Coordination.'' The clause was otherwise referenced correctly in the remainder of the supporting statement. As required by the Paperwork Reduction Act of 1995 (at 44 U.S.C. 3507(d)), VA has submitted this information collection amendment to OMB for its review to revise the title in paragraph 1 of the submitted statement. Notice of OMB approval for this information collection will be published in a future **Federal Register** document.

This final rule removes one of the existing information collection requirements associated with this action at 48 CFR 852.236–84, Schedule of Work Progress. Under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501–3521), while the actual OMB control number will remain in existence due to other information collections on the same OMB control number that are approved and active, it discontinues the inclusion of 852.236–84 under the associated corresponding approved OMB control number, 2900–0422. As a result of this final rule, the information collection burden that is associated with clause 852.236–84 is removed. For 48 CFR 852.236–84, Schedule of Work Progress, this would result in a removal of 1828.5 estimated annual burden hours and an annual cost savings of $70,800.

As required by the Paperwork Reduction Act of 1995 (at 44 U.S.C. 3507(d)), this final rule removes two of the existing information collection requirements associated with this action at 48 CFR 852.236–89, Buy American Act; and 852.236–91, Special Notes. Under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501–3521), it discontinues the associated corresponding approved OMB control numbers, 2900–0622 and 2900–0623, respectively. As a result of this final rule, the information collection burden that is associated with them is removed. For 48 CFR 852.236–89, Buy American Act, and its corresponding OMB control number 2900–0622, this results in the removal of 22 estimated annual burden hours and an annual cost savings to respondents of $852. For 48 CFR 852.236–91, Special Notes, and its corresponding OMB control number 2900–0623, this results in the removal of 778 estimated annual burden hours and an annual cost savings of $30,122. As required by the Paperwork Reduction Act of 1995 (at 44 U.S.C. 3507(d)), VA has submitted these information collection amendments to OMB for its review. Notice of OMB approval for this information collection will be published in a future **Federal Register** document.

Regulatory Flexibility Act

This final rule does not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. The overall impact of the rule is of benefit to small businesses owned by Veterans or service-disabled Veterans as the VAAR is being updated to remove extraneous procedural information that applies only to VA's internal operating processes or procedures. VA estimates no cost impact to individual business will result from these rule updates. This rulemaking clarifies VA's policy regarding the contracting order of priority for Service-Disabled Veteran-Owned Small Businesses (SDVOSBs) and Veteran-Owned Small Businesses (VOSBs) as a result of VA's implementation of 38 U.S.C. 8127–8128 as a result of the U.S. Supreme Court's decision in Kingdomware Technologies, Inc. vs. the United States, July 25, 2018, only as it pertains to the application of the VA Rule of Two to contracts for construction and architect-engineer contracts in accordance with Public Law 109–461 as codified at 38 U.S.C. 8127–8128. It does not have an economic impact to individual businesses, and there are no increased or decreased costs to small business entities. On this

basis, the final rule does not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. Therefore, under 5 U.S.C. 605(b), this regulatory action is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

Executive Orders 12866, 13563 and 13771

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

VA has examined the economic, interagency, budgetary, legal, and policy implications of this regulatory action, and it has been determined not be a significant regulatory action under E.O. 12866 because it does not raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order. VA's impact analysis can be found as a supporting document at *http://www.regulations.gov,* usually within 48 hours after the rulemaking document is published. Additionally, a copy of the rulemaking and its impact analysis are available on VA's website at *http://www.va.gov/orpm* by following the link for VA Regulations Published from FY 2004 Through Fiscal Year to Date. This final rule is considered an E.O. 13771 deregulatory action. Details on the estimated cost savings of this final rule can be found in the rule's economic analysis and in the PRA section below.

List of Subjects

48 CFR Part 801

Administrative practice and procedure, Government procurement, Reporting and recordkeeping requirements.

48 CFR Part 825

Customs duties and inspection, Foreign currencies, Foreign trade, Government procurement.

48 CFR Parts 836 and 852

Government procurement, Reporting and recordkeeping requirements.

48 CFR Part 842

Accounting, Government procurement.

48 CFR Parts 846 and 853

Government procurement.

Signing Authority

The Secretary of Veterans Affairs approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. Robert L. Wilkie, Secretary, Department of Veterans Affairs, approved this document on January 8, 2019, for publication.

Dated: March 12, 2019.

Consuela Benjamin,

Regulations Development Coordinator, Office of Regulation Policy & Management, Office of the Secretary, Department of Veterans Affairs.

For the reasons set out in the preamble, VA amends 48 CFR, parts 801, 825, 836, 842, 846, 852, and 853 as follows:

PART 801—DEPARTMENT OF VETERANS AFFAIRS ACQUISITION REGULATION SYSTEM

■ 1. The authority citation for part 801 continues to read as follows:

Authority: 40 U.S.C. 121(c); 41 U.S.C. 1121; 41 U.S.C. 1303; 41 U.S.C. 1702; and 48 CFR 1.301–1.304.

Subpart 801.1—Purpose, Authority, Issuance

801.106 [Amended]

■ 2. In 801.106, under the table, columns titled ''48 CFR part or section where identified and described'' and ''Current OMB control number'':

■ a. Remove the reference to 852.236–82 through 852.236–84 and 852.236–89 and the corresponding OMB Control Number 2900–0622.

■ b. Remove the reference to 852.236–91 and the corresponding OMB Control Number 2900–0623.

PART 825—FOREIGN ACQUISITION

■ 3. The authority citation for part 825 is revised to read as follows:

Authority: 40 U.S.C. 121(c); 41 U.S.C. 1702; and 48 CFR 1.301–1.304.

Subpart 825.2 [Removed and Reserved]

■ 4. Subpart 825.2, consisting of sections 825.103 and 825.104, is removed and reserved.

Subpart 825.11 [Removed and Reserved]

■ 5. Subpart 825.11, consisting of section 825.1102, is removed and reserved.

PART 836—CONSTRUCTION AND ARCHITECT-ENGINEER CONTRACTS

■ 6. The authority citation for part 836 is revised to read as follows:

Authority: 40 U.S.C. 121(c); 41 U.S.C. 1121(c)(3), 1303(a)(2) and 1702; and 48 CFR 1.301–1.304.

Subpart 836.2—Special Aspects of Contracting for Construction

■ 7. Section 836.202 is revised to read as follows:

836.202 Specifications.

■ 8. Section 836.202–70 is added to read as follows:

836.202–70 Specifications—use of equal products.

Upon approval of the justification documentation required by FAR 11.105, Items peculiar to one manufacturer, the contracting officer shall include the clause found at 852.236–90, Restriction on Submission and Use of Equal Products, in solicitations and contracts. The contracting officer shall complete the clause by inserting the items which have been approved for restriction to a brand name. This clause also places offerors or bidders on notice that the ''brand name'' provisions of any clause or provision that may authorize the submission of an ''equal'' product, shall not apply to the specific items listed in clause 852.236–90.

■ 9. Section is revised to read as follows:

836.203 Government estimate of construction costs.

■ 10. Section 836.203–70 is added to read as follows:

836.203–70 Protection of the independent government estimate—sealed bid.

For sealed bid acquisitions the contracting officer or bid custodian is not authorized to release the basis for calculating the estimate at any time. The person preparing the independent government estimate (IGE) shall—

(a) Designate the IGE as ''For Official Use Only (FOUO)'';

(b) The contracting officer or bid custodian shall file a sealed copy of the IGE with the bids. (In the case of two-step acquisitions, the contracting officer or bid custodian accomplishes this during the second step);

(c) After the bids are read and recorded during a Public Bid Opening, remove the ''For Official Use Only (FOUO)'' designation then read and record the estimate as if it were a bid, in the same detail as the bids; and

(d) In instances where only one bid has been received, the government estimate shall not be read by the contracting officer as it may be needed to conduct negotiations with the offeror.

■ 11. Section 836.204 is revised to read as follows:

836.204 Disclosure of the magnitude of construction projects.

The contracting officer shall utilize the estimated price ranges defined in FAR 36.204(a) through (e) as further supplemented below when identifying the magnitude of a VA project in advance notices and solicitations:

(f) For estimated price ranges between $1,000,000 and $5,000,000, the contracting officer shall identify the magnitude of a VA project in advance notices and solicitations in terms of the following price ranges:

(1) Between $1,000,000 and $2,000,000.

(2) Between $2,000,000 and $5,000,000.

(g) Between $5,000,000 and $10,000,000.

(h) For estimated price ranges greater than $10,000,000, the contracting officer shall identify the magnitude of a VA project in advance notices and solicitations in terms of one of the following price ranges:

(1) Between $10,000,000 and $20,000,000.

(2) Between $20,000,000 and $50,000,000.

(3) Between $50,000,000 and $100,000,000.

(4) Between $100,000,000 and $150,000,000.

(5) Between $150,000,000 and $200,000,000.

(6) Between $200,000,000 and $250,000,000.

(7) More than $250,000,000.

836.206 [Removed]

■ 12. Section 836.206 is removed.

836.209 [Removed]

■ 13. Section 836.209 is removed.

836.213, 836.213–4, and 836.213–70 [Removed]

■ 14. Sections 836.213, 836.213–4, and 836.213–70 are removed.

Subpart 836.5—Contract Clauses

■ 15. Section 836.500 is revised to read as follows:

836.500 Scope of subpart.

The clauses and provisions prescribed in this subpart are set forth for use in fixed-price construction contracts in addition to those prescribed in FAR subpart 36.5.

■ 16. Section 836.501 is revised to read as follows:

836.501 Performance of work by the contractor.

The contracting officer shall insert the clause at 852.236–72, Performance of Work by the Contractor, in solicitations and contracts for construction that contain the FAR clause at 52.236–1, Performance of Work by the Contractor, except those awarded pursuant to subpart 819.70. When the solicitations or contracts include a section entitled ''Network Analysis System (NAS),'' the contracting officer shall use the clause with its Alternate I.

836.513 [Removed]

■ 17. Section 836.513 is removed.

■ 18. Section 836.521 is revised to read as follows:

836.521 Specifications and drawings for construction.

The contracting officer shall insert the clause at 852.236–71, Specifications and Drawings for Construction, in solicitations and contracts for construction that include the FAR clause at 52.236–21, Specifications and Drawings for Construction.

836.570 [Removed]

■ 19. Section 836.570 is removed.

836.571 [Removed]

■ 20. Section 836.571 is removed.

836.572 [Removed]

■ 21. Section 836.572 is removed.

■ 22. Section 836.573 is revised to read as follows:

836.573 Contractor production report.

The contracting officer shall insert the clause at 852.236–79, Contractor Production Report, in solicitations and contracts for construction expected to exceed the simplified acquisition threshold. The contracting officer may, when in the best interest of the Government, insert the clause in solicitations and contracts for construction when the contract amount is expected to be at or below the simplified acquisition threshold.

■ 23. Section 836.574 is revised to read as follows:

836.574 Subcontracts and work coordination.

The contracting officer shall insert the clause at 852.236–80, Subcontracts and Work Coordination, in invitations for bids and contracts for construction expected to exceed the micro-purchase threshold for construction. When the solicitations or contracts are for new construction work with complex mechanical-electrical work, the contracting officer may use the clause with its Alternate I.

836.575 [Removed]

■ 24. Section 836.575 is removed.

836.576 [Removed]

■ 25. Section 836.576 is removed.

836.577 [Removed]

■ 26. Section 836.577 is removed.

836.579 [Removed]

■ 27. Section 836.579 is removed.

■ 28. Section 836.580 is added to read as follows:

836.580 Notice to bidders—additive or deductive bid line items.

The contracting officer may include the provision 852.236–92, Notice to Bidders—Additive or Deductive Bid Line Items, in invitations for bids when the contracting officer determines that funds may not be available for all the desired construction features at contract award.

Subpart 836.6—Architect-Engineer Services

836.602, 836.602–1, 836.602–2, 836.602–4, and 836.602–5 [Removed]

■ 29. Sections 836.602, 836.602–1, 836.602–2, 836.602–4, and 836.602–5 are removed.

■ 30. Section 836.603 is revised to read as follows:

836.603 Collecting data on and appraising firms' qualifications.

The Associate Executive Director, Office of Facilities Engineering, for Central Office; the Director, Office of Construction Management, for National Cemetery Administration; the Senior Executive Service (SES) official for Administration and Facilities for Veterans Benefits Administration; and the Chief, Engineering Service, for field facilities, are responsible for collecting Standard Forms 330 and maintaining a data file on architect-engineer qualifications.

■ 31. Sections 836.606, 86.606–70, and 86.606–71 are revised to read as follows:

836.606 Negotiations.

836.606–70 Architect-engineer firms' proposal.

(a) When the contract price is estimated to be $50,000 or more, the contracting officer shall use VA Form 6298, Architect-Engineer Fee Proposal, to obtain the proposal and supporting cost data from the proposed contractor and subcontractor in the negotiation of an A–E contract for design services.

(b) In obtaining A–E services for research study, seismic study, master planning study, construction management and other related services contracts, the contracting officer shall use VA Form 6298, supplemented or modified as needed for the particular project type.

836.606–71 Application of 6 percent architect-engineer fee limitation.

(a) The production and delivery of designs, plans, drawings, and specifications shall not exceed 6 percent of the estimated cost of construction. Other A–E fees are not included in this 6 percent. Such fees are delineated in reference (c) below.

(b) The 6 percent limit also applies to contract modifications, including modifications involving:

(1) *Work not initially included in the contract.* Apply the 6 percent limit to the revised total estimated construction cost.

(2) *Redesign.* Apply the 6 percent limit as follows—

(i) Add the estimated construction cost of the redesign features to the original estimated construction cost;

(ii) Add the contract cost for the original design to the contract cost for redesign; and

(iii) Divide the total contract design cost by the total estimated construction cost. The resulting percentage may not exceed the 6 percent statutory limitation.

(c) The 6 percent fee limitation does not apply to the following architect or engineer services:

(1) Investigative services including but not limited to—

(i) Determination of program requirements, including schematic or preliminary plans and estimates;

(ii) Determination of feasibility of proposed project;

(iii) Preparation of measured drawings of existing facility;

(iv) Subsurface investigation;

(v) Structural, electrical, and mechanical investigation of existing facility;

(vi) Surveys: topographic, boundary, utilities, etc.;

(vii) Environmental services;

(viii) Geo-Tech studies; and

(ix) Feasibility studies.

(2) Special consultant services that are not normally available in organizations of architects or engineers and that are not specifically applied to the actual preparation of working drawings or specifications of the project for which the service are required.

(3) Other—

(i) Reproduction of approved designs through models, color renderings, photographs, or other presentation media;

(ii) Travel and per diem allowances other than those required for the development and review of working drawings and specifications;

(iii) Supervision or inspection of construction, review of shop drawings or samples, and other services performed during the construction phase;

(iv) All other services that are not an integral part of the production and delivery of plans, designs, and specifications; and

(v) The cost of reproducing drawings and specifications for bidding and their distribution to prospective bidders and plan file rooms.

836.606–72 and 836.606–73 [Removed]

■ 32. Sections 836.606–72 and 836.606–73 are removed.

■ 33. Subpart 836.70, consisting of sections 836.7000 and 836.7001, is added to read as follows:

Subpart 836.70—Unique Forms for Contracting for Construction, Architect-Engineer Services, and Dismantling, Demolition, or Removal of Improvements

836.7000 Scope of subpart.

This subpart sets forth requirements for the use of VA unique forms, as prescribed in this part, for contracting for construction, architect-engineer services, or dismantling, demolition, or removal of improvements. See part 853.

836.7001 Unique construction and architect-engineer services forms.

Contracting officers may use the following forms, as prescribed in this subpart, for construction, architect-engineer services or dismantling, demolition, or removal of improvements contracts as set forth below and in the referenced prescriptions:

(a) VA Form 6298, Architect-Engineer Fee Proposal (see 853.236–70). VA Form 6298, Architect-Engineer Fee Proposal, shall be used as prescribed in 836.606–70.

(b) VA Form 2138, Order for Supplies or Services (Including Task Orders for Construction or A–E Services) (see 853.236–71). VA Form 2138, Order for Supplies or Services (Including Task Orders for Construction or A–E Services), may be used for ordering supplies or services, including task orders for Construction or A–E services, to include dismantling, demolition, or removal of improvements.

(c) VA Form 10101, Contractor Production Report (see 853.236–72). Contractors may use VA Form 10101, Contractor Production Report or a contractor generated form containing the same type of information contained in the form, as required by 836.573 which prescribes the clause at 852.236–79, Contractor Production Report.

PART 842—CONTRACT ADMINISTRATION AND AUDIT SERVICES

■ 34. The authority citation for part 842 is amended to read as follows:

Authority: 40 U.S.C. 121(c); 41 U.S.C. 1702; and 48 CFR 1.301–1.304.

■ 35. Subpart 842.2, consisting of section 842.271, is added to read as follows:

Subpart 842.2—Contract Administration Services

842.271 Contract clause for Government construction contract administration.

The contracting officer shall insert the clause at 852.242–70, Government Construction Contract Administration, in solicitations and contracts for construction expected to exceed the micro-purchase threshold for construction.

PART 846—QUALITY ASSURANCE

■ 36. The authority citation for part 846 is revised to read as follows:

Authority: 40 U.S.C. 121(c); 41 U.S.C. 1121; 41 U.S.C. 1303; 41 U.S.C. 1702; and 48 CFR 1.301–1.304.

846.312 [Removed]

■ 37. Section 846.312 is removed.

PART 852—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 38. The authority citation for part 852 continues to read as follows:

Authority: 38 U.S.C. 8127–8128, and 8151–8153; 40 U.S.C. 121(c); 41 U.S.C. 1121(c)(3); 41 U.S.C. 1702; and 48 CFR 1.301–1.304.

■ 39. Section 852.236–71 is revised to read as follows:

852.236–71 Specifications and Drawings for Construction.

As prescribed in 836.521, insert the following clause:

Specifications and Drawings for Construction (Apr 2019)

The clause entitled ''Specifications and Drawings for Construction'' in FAR 52.236–21 is supplemented as follows:

(a) The Contracting Officer's interpretation of the drawings and specifications will be final, subject to the Disputes clause.

(b) The Contractor shall—

(1) Check all drawings and specifications furnished immediately upon receipt;

(2) Compare all drawings and the specifications, and verify the figures before laying out the work;

(3) Promptly notify the Contracting Officer of any discrepancies;

(4) Be responsible for any errors that might have been avoided by complying with this paragraph (b); and

(5) Reproduce and print contract drawings and specifications as needed.

(c) In general—

(1) Drawings of greater detail shall govern over drawings of lesser detail unless specifically noted otherwise; and

(2) Figures and numerical quantities noted on drawings govern over scale measurements.

(d) Omissions from the drawings or specifications or the misdescription of details of work that are manifestly necessary to carry out the intent of the drawings and specifications, or that are customarily performed, shall not relieve the Contractor from performing such omitted or misdescribed details of the work. The Contractor shall perform such details as if fully and correctly set forth and described in the drawings and specifications.

(e) The work shall conform to the specifications and the contract drawings identified on the following index of drawings:

Title File Drawing No.

(End of clause)

■ 40. Section 852.236–72 is revised to read as follows:

852.236–72 Performance of Work by the Contractor.

As prescribed in 836.501, insert the following clause:

Performance of Work by the Contractor (Apr 2019)

(a) In accordance with FAR 52.236–1, the contract work accomplished on the site by laborers, mechanics, and foreman/superintendent on the Contractor's payroll and under their direct supervision shall be used in establishing the percent of work to be performed by the Contractor. Cost of material and equipment installed by such labor may be included. The work by the Contractor's executive, administrative and clerical forces shall be excluded in establishing compliance with the requirements of this clause.

(b) The Contractor shall submit, simultaneously with the schedule of costs required by the Payments under Fixed-Price Construction Contracts clause of the contract, a statement designating the portions of contract work to be performed with the Contractor's own forces. The approved schedule of costs will be used in determining the value of a work activity/event, or portions thereof, of the work for the purpose of this article.

(c) Changes to established activity/event identifiers or responsibility codes for Contractor activities shall not be made without approval from the Contracting Officer.

(d) In the event the Contractor fails to comply with FAR 52.236–1, Performance of Work by the Contractor, the Contracting Officer will withhold retention in the amount of 15% of the value of any work activity/element being invoiced that was not authorized by the Contracting Officer to be performed by someone other than the prime Contractor's own workforce.

(End of clause)

Alternate I (APR 2019). For requirements which include a Network Analysis System (NAS), substitute the following paragraph (b) for paragraph (b) of the basic clause:

(b) The Contractor shall submit, simultaneously with the cost per activity of the construction schedule required by Section 01310 or 01311, NETWORK ANALYSIS SYSTEM, a responsibility code for all activities of the network for which the Contractor's forces will perform the work. The cost of these activities will be used in determining the portions of the total contract work to be executed by the Contractor's forces for the purpose of this article.

852.236–74 [Removed and Reserved]

■ 41. Section 852.236–74 is removed and reserved.

852.236–76 [Removed and Reserved]

■ 42. Section 852.236–76 is removed and reserved.

852.236–77 [Removed and Reserved]

■ 43. Section 852.236–77 is removed and reserved.

852.236–78 [Removed and Reserved]

■ 44. Section 852.236–78 is removed and reserved.

■ 45. Section 852.236–79 is revised to read as follows:

852.236–79 Contractor Production Report.

As prescribed in 836.573, insert the following clause:

Contractor Production Report (Apr 2019)

(a) The Contractor shall furnish to the resident engineer, for each workday, a consolidated report for the preceding workday. Reporting shall begin from date of mobilization until the date of final acceptance except for authorized holidays. VA Form 10101, Contractor Production Report, or a Contractor generated form containing the same type of information shall be signed, dated and submitted by the Contractor superintendent.

(b) Each report shall include and specifically identify at least one safety topic germane to the jobsite that day.

(End of clause)

■ 46. Section 852.236–80 is revised to read as follows:

852.236–80 Subcontracts and Work Coordination.

As prescribed in 836.574, insert the following clause:

Subcontracts and Work Coordination (Apr 2019)

(a) Nothing contained in this contract shall be construed as creating any contractual relationship between any subcontractor and the Government. Divisions or sections of specifications are not intended to control the Contractor in dividing work among subcontractors, or to limit work performed by any trade.

(b) The Contractor shall be responsible to the Government for acts and omissions of his/her own employees, and of the subcontractors and their employees. The Contractor shall also be responsible for coordination of the work of the trades, subcontractors, and material suppliers.

(c) The Government or its representatives will not undertake to settle any differences between the Contractor and subcontractors or between subcontractors.

(d) The Government reserves the right to refuse to permit employment on the work, or require dismissal from the work, of any subcontractor or subcontractor employee who, by reason of previous unsatisfactory work on Department of Veterans Affairs projects or for any other reason, is considered by the Contracting Officer to be incompetent, careless, or otherwise objectionable.

(End of clause)

Alternate I (APR 2019). For new construction work with complex mechanical-electrical work, the

following paragraph relating to work coordination may be substituted for paragraph (b) of the basic clause:

(b) The Contractor shall be responsible to the Government for acts and omissions of his/her own employees, and subcontractors and their employees. The Contractor shall also be responsible for coordination of the work of the trades, subcontractors, and material suppliers. The Contractor shall, in advance of the work, prepare coordination drawings showing the location of openings through slabs, the pipe sleeves and hanger inserts, as well as the location and elevation of utility lines, including, but not limited to, conveyor systems, pneumatic tubes, ducts, and conduits and pipes two inches and larger in diameter. These drawings, including plans, elevations, and sections as appropriate, shall clearly show the manner in which the utilities fit into the available space and relate to each other and to existing building elements. Drawings shall be of appropriate scale to satisfy the previously stated purposes, but not smaller than ⅜-inch scale. Drawings may be composite (with distinctive colors for the various trades) or may be separate but fully coordinated drawings (such as sepias or photographic paper reproducibles) of the same scale. Separate drawings shall depict identical building areas or sections and shall be capable of being overlaid in any combination. The submitted drawings for a given area of the project shall show the work of all trades that will be involved in that particular area. Six complete composite drawings or six complete sets of separate reproducible drawings shall be received by the Government not less than 20 days prior to the scheduled start of the work in the area illustrated by the drawings, for the purpose of showing the Contractor's planned methods of installation. The objectives of such drawings are to promote carefully planned work sequence and proper trade coordination, in order to assure the expeditious solutions of problems and the installation of lines and equipment as contemplated by the contract documents while avoiding or minimizing additional costs to the Contractor and to the Government. In the event the Contractor, in coordinating the various installations and in planning the method of installation, finds a conflict in location or elevation of any of the utilities with themselves, with structural items or with other construction items, he/she shall bring this conflict to the attention of the Contracting Officer immediately. In doing so, the Contractor shall explain the proposed method of solving the problem or shall request instructions as to how to proceed if adjustments beyond those of usual trades' coordination are necessary. Utilities installation work will not proceed in any area prior to the submission and completion of the Government review of the coordinated drawings for that area, nor in any area in which conflicts are disclosed by the coordination drawings, until the conflicts have been corrected to the satisfaction of the Contracting Officer. It is the responsibility of the Contractor to submit the required drawings in a timely manner consistent with the requirements to complete the work covered by this contract within the prescribed contract time.

852.236–84 [Removed and Reserved]

■ 47. Section 852.236–84 is removed and reserved.

852.236–85 [Removed and Reserved]

■ 48. Section 852.236–85 is removed and reserved.

852.236–86 [Removed and Reserved]

■ 49. Section 852.236–86 is removed and reserved.

852.236–87 [Removed and Reserved]

■ 50. Section 852.236–87 is removed and reserved.

852.236–89 [Removed and Reserved]

■ 51. Section 852.236–89 is removed and reserved.

■ 52. Section 852.236–90 is revised to read as follows:

852.236–90 Restriction on Submission and Use of Equal Products.

As prescribed in 836.202–70, insert the following clause in solicitations and contracts when it is determined that only one product will meet the Government's minimum needs and the submission of ''equal'' products is not permitted:

Restriction on Submission and Use of Equal Products (Apr 2019)

(a) This clause applies to the following items: [*Contracting Officer fill-in]*

_____

_____

_____

(b) Notwithstanding the ''Material and Workmanship'' clause of this contract, FAR 52.236–5(a), nor any other clause or provision, only brand name products for the items listed above will be authorized for use on this contract.

(End of clause)

852.236–91 [Removed and Reserved]

■ 53. Section 852.236–91 is removed and reserved.

■ 54. Section 852.236–92 is added as follows:

852.236–92 Notice to Bidders—Additive or Deductive Bid Line Items.

As prescribed in 836.580, insert the following provision:

Notice to Bidders—Additive or Deductive Bid Line Items (Apr 2019)

(a) Additive or deductive line items in the bid schedule shall be evaluated to determine the low offeror and the items to be awarded. The evaluation shall be made as follows—

(1) Prior to the opening of bids, the Government will determine the amount of funds available for the project.

(2) The low bid shall be the Bidder that—

(i) Is otherwise eligible for award; and

(ii) Offers the lowest aggregate amount for the first or base line item, plus or minus (in the order stated in the list of priorities in the bid schedule) those additive or deductive line items that provide the most features within the funds determined available.

(3) All bids shall be evaluated on the basis of the same additive or deductive line items.

(i) If adding another item from the bid schedule list of priorities would make the award exceed the available funds for all offerors, the Contracting Officer will skip that item and go to the next item from the bid schedule of priorities; and

(ii) Add that next item if an award may be made that includes that line item and is within the available funds.

(b) The Contracting Officer will use the list of priorities in the bid schedule only to determine the low offeror. After determining the low offeror, an award may be made on any combination of items if—

(1) It is in the best interest of the Government;

(2) Funds are available at the time of award; and

(3) The low offeror's price for the combination to be awarded is less than the price offered by any other responsive, responsible offeror.

(c) Example: ''The amount available is $100,000. Offeror A's base bid and four additives (in the order stated in the list of priorities in the bid schedule) are $85,000, $10,000, $8,000, $6,000, and $4,000. Offeror B's base bid and four additives are $80,000, $16,000, $9,000, $7,000, and $4,000. Offeror A is the low offeror. The aggregate amount of offeror A's bid for purposes of award would be $99,000, which includes a base bid plus the first and fourth additives. The second and third additives were skipped because each of them would cause the aggregate bid to exceed $100,000.''

(End of provision)

■ 55. Section 852.242–70 is added as follows:

852.242–70 Government Construction Contract Administration.

As prescribed in 842.271, insert the following clause. This is a fill-in clause.

Government Construction Contract Administration (Apr 2019)

(a) Contract administration functions set forth in FAR 42.302 are hereby delegated to:

[*Insert name and office address of Contracting Officer*]

(b) The work will be under the direction of a Department of Veterans Affairs Contracting Officer, who may designate another VA employee to act as resident engineer at the construction site.

(c) Except as provided below, the resident engineer's directions will not conflict with or change contract requirements. Within the limits of any specific authority delegated by the Contracting Officer, the resident engineer may, by written direction, make changes in the work. The Contractor shall be advised of the extent of such authority prior to execution of any work under the contract.

(d) The Contracting Officer identified in paragraph (a) may further delegate the responsibilities below to the following warranted personnel on site:

[*Insert name and office address of individual with limited authority*]

(1) Conduct post-award orientation conferences.

(2) Issue administrative changes, correcting errors or omissions in typing, Contractor address, facility or activity code, remittance address, computations which do not require additional contract funds, and other such changes (see FAR 43.101).

(3) For actions not to exceed $ [insert dollar amount] negotiate and execute supplemental agreements incorporating Contractor proposals resulting from change orders issued under the Changes clause.

(4) Negotiate and execute supplemental agreements changing contract delivery schedules where the time extension does not exceed [insert number] calendar days.

(End of clause)

PART 853—FORMS

■ 56. The authority citation for part 853 is amended to read as follows:

Authority: 40 U.S.C. 121(c); 41 U.S.C. 1702; and 48 CFR 1.301–1.304.

Subpart 853.1—General

■ 57. Section 853.107 is revised to read as follows:

853.107 Obtaining forms.

VA forms may be obtained online at *https://www.va.gov/vaforms/* or upon request from any VA contracting office.

Subpart 853.2—Prescription of Forms

■ 58. Sections 853.236 and 853.236–70 are revised to read as follows:

853.236 Construction and architect-engineer contracts.

853.236–70 VA Form 6298, Architect-Engineer Fee Proposal.

See 836.7001(a).

■ 59. Sections 836.236–71 and 853.236–72 are added to read as follows:

853.236–71 VA Form 2138, Order for Supplies or Services (Including Task Orders for Construction or A–E Services).

See 836.7001(b).

853.236–72 VA Form 10101, Contractor Production Report.

See 836.7001(c).

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 180713633–9174–02]

RIN 0648–XG847

Fisheries of the Exclusive Economic Zone Off Alaska; Reallocation of Pollock in the Bering Sea and Aleutian Islands

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

ACTION: Temporary rule.

SUMMARY: NMFS is reallocating the projected unused amounts of the Community Development Quota (CDQ) pollock directed fishing allowances (DFA) from the Aleutian Islands subarea to the Bering Sea subarea. This action is necessary to provide opportunity for harvest of the 2019 total allowable catch of pollock, consistent with the goals and objectives of the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (BSAI).

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), March 19, 2019, until the effective date of the final 2019 and 2020 harvest specifications for BSAI groundfish, unless otherwise modified or superseded through publication of a notification in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Steve Whitney, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the BSAI exclusive economic zone according to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (FMP) prepared by the North Pacific Fishery Management Council (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.

In the Aleutian Islands subarea, the portion of the 2019 pollock total allowable catch (TAC) allocated to the CDQ DFA is 1,900 mt as established by the final 2019 and 2020 harvest specifications for groundfish in the BSAI (84 FR 9000, March 13, 2019).

As of March 13, 2019, the Administrator, Alaska Region, NMFS, (Regional Administrator) has determined that 1,900 mt of pollock CDQ DFA in the Aleutian Islands subarea will not be harvested. Therefore, in accordance with § 679.20(a)(5)(iii)(B)(*4*), NMFS reallocates 1,900 mt of pollock CDQ DFA from the Aleutian Islands subarea to the 2019 Bering Sea subarea. The 1,900 mt of pollock CDQ DFA is added to the 2019 Bering Sea CDQ DFA. The 2019 Bering Sea subarea pollock incidental catch allowance remains at 46,520 mt. As a result, the 2019 harvest specifications for pollock in the Aleutian Islands subarea included in the final 2019 and 2020 harvest specifications for groundfish in the BSAI (84 FR 9000, March 13, 2019) are revised as follows: 0 mt to CDQ DFA. Furthermore, pursuant to § 679.20(a)(5), Table 4 of the final 2019 and 2020 harvest specifications for groundfish in the BSAI (84 FR 9000, March 13, 2019) is revised to make 2019 pollock allocations consistent with this reallocation. This reallocation results in an adjustment to the 2019 CDQ pollock allocation established at § 679.20(a)(5).

TABLE 4—FINAL 2019 ALLOCATIONS OF POLLOCK TACS TO THE DIRECTED POLLOCK FISHERIES AND TO THE CDQ DIRECTED FISHING ALLOWANCES (DFA) [1]

[Amounts are in metric tons]

Area and sector	2019 Allocations	2019 A season [1]		2019 B season [1]
		A season DFA	SCA harvest limit [2]	B season DFA
Bering Sea subarea TAC [1]	1,398,900	n/a	n/a	n/a
CDQ DFA	141,600	63,720	39,648	77,880
ICA [1]	46,520	n/a	n/a	n/a
Total Bering Sea non-CDQ DFA	1,210,780	544,851	339,018	665,929
AFA Inshore	605,390	272,425	169,509	332,964
AFA Catcher/Processors [3]	484,312	217,940	135,607	266,372
Catch by C/Ps	443,145	199,415	n/a	243,730
Catch by CVs [3]	41,167	18,525	n/a	22,642
Unlisted C/P Limit [4]	2,422	1,090	n/a	1,332
AFA Motherships	121,078	54,485	33,902	66,593
Excessive Harvesting Limit [5]	211,886	n/a	n/a	n/a
Excessive Processing Limit [6]	363,234	n/a	n/a	n/a
Aleutian Islands subarea ABC	52,887	n/a	n/a	n/a
Aleutian Islands subarea TAC [1]	17,100	n/a	n/a	n/a
CDQ DFA	.....	.....	n/a	.....
ICA	2,400	1,200	n/a	1,200
Aleut Corporation	14,700	14,700	n/a	.....
Area harvest limit [7]	n/a	n/a	n/a	n/a
541	15,866	n/a	n/a	n/a
542	7,933	n/a	n/a	n/a
543	2,644	n/a	n/a	n/a
Bogoslof District ICA [8]	75	n/a	n/a	n/a

[1] Pursuant to § 679.20(a)(5)(i)(A), the Bering Sea subarea pollock, after subtracting the CDQ DFA (10 percent) and the ICA (3.7 percent), is allocated as a DFA as follows: Inshore sector—50 percent, catcher/processor sector (C/P)—40 percent, and mothership sector—10 percent. In the Bering Sea subarea, 45 percent of the DFA is allocated to the A season (January 20–June 10) and 55 percent of the DFA is allocated to the B season (June 10–November 1). Pursuant to § 679.20(a)(5)(iii)(B)(*2*)(*i*) through (*iii*), the annual Aleutian Islands pollock TAC, after subtracting first for the CDQ DFA (10 percent) and second for the ICA (2,400 mt), is allocated to the Aleut Corporation for a pollock directed fishery. In the Aleutian Islands subarea, the A season is allocated up to 40 percent of the ABC.

[2] In the Bering Sea subarea, pursuant to § 679.20(a)(5)(i)(C), no more than 28 percent of each sector's annual DFA may be taken from the SCA before noon, April 1.

[3] Pursuant to § 679.20(a)(5)(i)(A)(*4*), 8.5 percent of the DFA allocated to listed C/Ps shall be available for harvest only by eligible catcher vessels with a C/P endorsement delivering to listed C/Ps, unless there is a C/P sector cooperative for the year.

[4] Pursuant to § 679.20(a)(5)(i)(A)(*4*)(*iii*), the AFA unlisted catcher/processors are limited to harvesting not more than 0.5 percent of the catcher/processors sector's allocation of pollock.

[5] Pursuant to § 679.20(a)(5)(i)(A)(*6*), NMFS establishes an excessive harvesting share limit equal to 17.5 percent of the sum of the non-CDQ pollock DFAs.

[6] Pursuant to § 679.20(a)(5)(i)(A)(*7*), NMFS establishes an excessive processing share limit equal to 30.0 percent of the sum of the non-CDQ pollock DFAs.

[7] Pursuant to § 679.20(a)(5)(iii)(B)(*6*), NMFS establishes harvest limits for pollock in the A season in Area 541 of no more than 30 percent, in Area 542 of no more than 15 percent, and in Area 543 of no more than 5 percent of the Aleutian Islands pollock ABC.

[8] Pursuant to § 679.22(a)(7)(i)(B), the Bogoslof District is closed to directed fishing for pollock. The amounts specified are for incidental catch only and are not apportioned by season or sector.

Note: Seasonal or sector apportionments may not total precisely due to rounding.

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 reallocation of Aleutian Islands pollock. Since the pollock fishery opened January 20, 2019, it is important to immediately inform the industry as to the final Bering Sea subarea pollock CDQ DFA. Immediate notification is necessary to allow for the orderly conduct and efficient operation of this fishery; allow the industry to plan for the fishing season and avoid potential disruption to the fishing fleet as well as processors; and provide opportunity to harvest increased seasonal pollock allocations while value is optimum. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of March 13, 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 14, 2019.

Alan D. Risenhoover,

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

[FR Doc. 2019–05160 Filed 3–18–19; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 180713633–9174–02 and 180831813–9170–02]

RIN 0648–XG816

Fisheries of the Exclusive Economic Zone Off Alaska; Sablefish Managed Under the Individual Fishing Quota Program

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

ACTION: Temporary rule; opening.

SUMMARY: NMFS is opening directed fishing for sablefish with fixed gear managed under the Individual Fishing Quota (IFQ) Program and the Community Development Quota (CDQ) Program. The season will open 1200 hours, Alaska local time (A.l.t.), March 15, 2019, and will close 1200 hours, A.l.t., November 14, 2019. This period is the same as the 2019 commercial halibut fishery opening dates adopted by the International Pacific Halibut Commission. The IFQ and CDQ halibut season is specified by a separate publication in the **Federal Register** of annual management measures.

DATES: Effective 1200 hours, A.l.t., March 15, 2019, until 1200 hours, A.l.t., November 14, 2019.

FOR FURTHER INFORMATION CONTACT: Obren Davis, 907–586–7228.

SUPPLEMENTARY INFORMATION: Beginning in 1995, fishing for Pacific halibut and sablefish with fixed gear in the IFQ regulatory areas defined in 50 CFR 679.2 has been managed under the IFQ Program. The IFQ Program is a regulatory regime designed to promote the conservation and management of these fisheries and to further the objectives of the Magnuson-Stevens Fishery Conservation and Management Act and the Northern Pacific Halibut Act. Persons holding quota share receive an annual allocation of IFQ. Persons receiving an annual allocation of IFQ are authorized to harvest IFQ species within specified limitations. Further information on the implementation of the IFQ Program, and the rationale supporting it, are contained in the preamble to the final rule implementing the IFQ Program published in the **Federal Register**, November 9, 1993 (58 FR 59375) and subsequent amendments.

This announcement is consistent with § 679.23(g)(1), which requires that the directed fishing season for sablefish managed under the IFQ Program be specified by the Administrator, Alaska Region, and announced by publication in the **Federal Register**. This method of season announcement was selected to facilitate coordination between the sablefish season, chosen by the Administrator, Alaska Region, and the halibut season, adopted by the International Pacific Halibut Commission (IPHC). The directed fishing season for sablefish with fixed gear managed under the IFQ Program will open 1200 hours, A.l.t., March 15, 2019, and will close 1200 hours, A.l.t., November 14, 2019. This period runs concurrently with the IFQ season for Pacific halibut announced by the IPHC. The IFQ halibut season will be specified by a separate publication in the **Federal Register** of annual management measures pursuant to 50 CFR 300.62.

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 opening of the sablefish fishery thereby increasing bycatch and regulatory discards between the sablefish fishery and the halibut fishery, and preventing the accomplishment of the management objective for simultaneous opening of these two fisheries. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of March 12, 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 § 679.23 and is exempt from review under Executive Order 12866.

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

Dated: March 14, 2019.

Alan D. Risenhoover,

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

[FR Doc. 2019–05118 Filed 3–14–19; 4:15 pm]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 84, No. 53
Tuesday, March 19, 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 ENERGY

10 CFR Part 431

[EERE–2017–BT–TP–0006]

Energy Conservation Program: Test Procedure for Automatic Commercial Ice Makers

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

ACTION: Request for information.

SUMMARY: The U.S. Department of Energy (''DOE'') is initiating a data collection process through this request for information (''RFI'') to consider whether to amend DOE's test procedure for automatic commercial ice makers (''ACIM'' or ''ice makers''). To inform interested parties and to facilitate this process, DOE has gathered data, identifying several issues associated with the currently applicable test procedure on which DOE is interested in receiving comment. The issues outlined in this document mainly concern new versions of the industry standards that the current DOE test procedure incorporates by reference; consideration of additional specifications and amendments that may improve the accuracy of the test procedure or reduce the testing burden on manufacturers; and any additional topics that may inform DOE's decisions in a future test procedure rulemaking, including methods to reduce regulatory burden while ensuring the procedure's accuracy. DOE welcomes written comments from the public on any subject within the scope of this document (including topics not raised in this RFI).

DATES: Written comments and information are requested and will be accepted on or before April 18, 2019.

ADDRESSES: Interested persons are encouraged to submit comments using the Federal eRulemaking Portal at *http://www.regulations.gov.* Follow the instructions for submitting comments. Alternatively, interested persons may submit comments, identified by docket number EERE–2017–BT–TP–0006, by any of the following methods:

1. *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
2. *Email:* to *ACIM2017TP0006@ee.DOE.gov.* Include docket number EERE–2017–BT–TP–0006 in the subject line of the message.
3. *Postal Mail:* Appliance and Equipment Standards Program, U.S. Department of Energy, Building Technologies Office, Mailstop EE–5B, 1000 Independence Avenue SW, Washington, DC 20585–0121. Telephone: (202) 287–1445. If possible, please submit all items on a compact disc (''CD''), in which case it is not necessary to include printed copies.
4. *Hand Delivery/Courier:* Appliance and Equipment Standards Program, U.S. Department of Energy, Building Technologies Office, 950 L'Enfant Plaza SW, Suite 600, Washington, DC 20024. Phone: (202) 287–1445. If possible, please submit all items on a CD, in which case it is not necessary to include printed copies.

No telefacsimilies (faxes) will be accepted. For detailed instructions on submitting comments and additional information on this process, see section III of this document.

Docket: The docket, which includes **Federal Register** notices, comments, and other supporting documents/materials, is available for review at *http://www.regulations.gov.* All documents in the docket are listed in the *http://www.regulations.gov* index. However, some documents listed in the index, such as those containing information that is exempt from public disclosure, may not be publicly available.

The docket web page can be found at *https://www1.eere.energy.gov/buildings/appliance_standards/standards.aspx?productid=53&action=viewlive.* The docket web page contains simple instructions on how to access all documents, including public comments, in the docket. See section III for information on how to submit comments through *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT:

Dr. Stephanie Johnson, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Office, EE–5B, 1000 Independence Avenue SW, Washington, DC 20585–0121. Telephone: (202) 287–1943. Email: *ApplianceStandardsQuestions@ee.doe.gov.*

Mr. Pete Cochran, U.S. Department of Energy, Office of the General Counsel, GC–33, 1000 Independence Avenue SW, Washington, DC 20585–0121. Telephone: (202) 586–9496. Email: *Peter.Cochran@hq.doe.gov.*

For further information on how to submit a comment or review other public comments and the docket contact the Appliance and Equipment Standards Program staff at (202) 287–1445 or by email: *ApplianceStandardsQuestions@ee.doe.gov.*

SUPPLEMENTARY INFORMATION:

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I. Introduction

ACIM are included in the list of ''covered products'' for which DOE is authorized to establish and amend energy conservation standards and test procedures. (42 U.S.C. 6311(1)(F)) DOE's test procedure for ACIM is prescribed at 10 CFR 431.134. The following sections discuss DOE's authority to establish and amend the test procedure for ACIM, as well as relevant background information regarding DOE's consideration of test procedures for this equipment.

A. Authority and Background

The Energy Policy and Conservation Act of 1975, as amended (''EPCA''), Public Law 94–163 (42 U.S.C. 6291–6317, as codified), among other things, authorizes DOE to regulate the energy efficiency of a number of consumer products and certain industrial equipment.[1] Title III, Part C of EPCA established the Energy Conservation Program for Certain Industrial

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

Equipment, which sets forth a variety of provisions designed to improve energy efficiency.[2] This equipment includes ACIM, the subject of this RFI. (42 U.S.C. 6311(1)(F))

Under EPCA, DOE's energy conservation program consists essentially of four parts: (1) Testing, (2) labeling, (3) Federal energy conservation standards, and (4) certification and enforcement procedures. Federal testing requirements consist of test procedures that manufacturers of covered equipment must use as the basis for: (1) Certifying to DOE that their equipment complies with the applicable energy conservation standards adopted pursuant to EPCA (42 U.S.C. 6316(a); 42 U.S.C. 6295(s)), and (2) making representations about the efficiency of that equipment (42 U.S.C. 6314(d)). Similarly, DOE must use these test procedures to determine whether the equipment complies with relevant standards promulgated under EPCA. (42 U.S.C. 6316(a); 42 U.S.C. 6295(s))

Under 42 U.S.C. 6314, EPCA sets forth the criteria and procedures DOE is required to follow when prescribing or amending test procedures for covered equipment. EPCA requires that any test procedures prescribed or amended under this section must be reasonably designed to produce test results which reflect energy efficiency, energy use or estimated annual operating cost of a given type of covered equipment during a representative average use cycle and requires that test procedures not be unduly burdensome to conduct. (42 U.S.C. 6314(a)(2))

EPCA also requires that, at least once every 7 years, DOE evaluate the test procedures for each type of covered equipment, including ACIM, to determine whether amended test procedures would more accurately or fully comply with the requirements for test procedures not to be unduly burdensome to conduct and be reasonably designed to produce test results that reflect energy efficiency, energy use, and estimated operating costs during a representative average use cycle. (42 U.S.C. 6314(a)(1)) In addition, if the Secretary determines that a test procedure amendment is warranted, the Secretary must publish proposed test procedures in the **Federal Register**, and afford interested persons an opportunity (of not less than 45 days' duration) to present oral and written data, views, and arguments on the proposed test procedures. (42 U.S.C. 6314(b)) If DOE determines that test procedure revisions are not appropriate, DOE must publish its determination not to amend the test procedures. DOE is publishing this RFI to collect data and information to inform its decision in satisfaction of the 7-year review requirement specified in EPCA. (42 U.S.C. 6314(a)(1))

B. Rulemaking History

EPCA prescribed the first Federal test procedure for ice makers, directing that the ACIM test procedure is the Air-Conditioning, Heating, and Refrigeration Institute (AHRI) Standard 810–2003, ''Performance Rating of Automatic Commercial Ice-Makers.'' (42 U.S.C. 6314(a)(7)(A)) EPCA further stipulated that if AHRI 810–2003 was revised, DOE must amend the DOE test procedure as necessary to be consistent with the amended AHRI Standard unless DOE determines, by rule and supported by clear and convincing evidence, that to do so would not meet the requirements for test procedures set forth in EPCA. (42 U.S.C. 6314(a)(7)(B)) If DOE determines that a test procedure amendment is warranted, it must publish proposed test procedures and offer the public an opportunity to present oral and written comments on them. (42 U.S.C. 6314(b))

Pursuant to these provisions, on December 8, 2006, DOE published a final rule (''the 2006 *en masse* final rule'') that, among other things, adopted the test procedure specified in AHRI Standard 810–2003 as the Federal test procedure for ice makers. 71 FR 71339. DOE also adopted a clarified energy use rate equation to specify that energy use be calculated using the entire mass of ice produced during the testing period, normalized to 100 pounds of ice produced. *Id.* at 71 FR 71350. The DOE test procedure also incorporated by reference the American National Standards Institute (''ANSI'')/American Society of Heating, Refrigerating and Air-Conditioning Engineers (''ASHRAE'') Standard 29–1988 (Reaffirmed 2005) (''ASHRAE Standard 29–1988 (RA 2005)''), ''Method of Testing Automatic Ice Makers,'' as the method of testing. The 2006 *en masse* final rule preamble stated that the adopted test procedure was applicable to ACIM that produce cube type ice with capacities between 50 and 2,500 lb/24 h. *Id.* at 71 FR 71351.

Subsequently, on January 11, 2012, DOE satisfied its statutory obligation under 42 U.S.C. 6314(a)(7)(B) to amend the ACIM test procedure by incorporating by reference AHRI Standard 810–2007 with Addendum 1 ''2007 Standard for Performance Rating of Automatic Commercial Ice Makers'' (''AHRI 810–2007'') and ANSI/ASHRAE Standard 29–2009 ''Method of Testing Automatic Ice Makers,'' (including Errata Sheets issued April 8, 2010 and April 21, 2010), approved January 28, 2009 (''ASHRAE 29–2009''). 77 FR 1591 (''January 2012 ACIM TP final rule''). Consistent with the statutory definition of ACIM and the updated AHRI 810–2007, the amended DOE test procedure expanded the scope of the test procedure to include equipment with capacities from 50 to 4,000 lb/24 h. The updated DOE test procedure also (1) provided test methods for continuous type ice makers and batch type ice makers that produce other than cube type ice, (2) standardized the measurement of energy and water use for continuous type ice makers with respect to ice hardness, (3) clarified the test method and reporting requirements for remote condensing automatic commercial ice makers designed for connection to remote compressor racks, and (4) discontinued the use of a clarified energy use rate calculation to instead reference the calculation of energy use per 100 pounds of ice as specified in ASHRAE 29–2009. *Id.* The amended test procedure became mandatory for equipment testing beginning on January 7, 2013. *Id.*

II. Request for Information

In the following sections, DOE has identified a variety of issues on which it seeks input to aid in the development of the technical and economic analyses regarding whether amended test procedures for ACIM would more accurately or fully comply with the requirements in EPCA that test procedures: (1) Be reasonably designed to produce test results which reflect energy use during a representative average use cycle, and (2) not be unduly burdensome to conduct. (42 U.S.C. 6314(a)(2)) Specifically, DOE is requesting comment on any opportunities to streamline and simplify testing requirements for ACIM.

Additionally, DOE welcomes comments on other issues relevant to the conduct of this process that may not specifically be identified in this document. In particular, DOE notes that under Executive Order 13771, ''Reducing Regulation and Controlling Regulatory Costs,'' Executive Branch agencies such as DOE are directed to manage the costs associated with the imposition of expenditures required to comply with Federal regulations. 82 FR 9339 (Feb. 3, 2017). Consistent with that Executive Order, DOE encourages the public to provide input on measures DOE could take to lower the cost of its regulations applicable to ACIM

[2] For editorial reasons, upon codification in the U.S. Code, Part C was redesignated Part A–1.

consistent with the requirements of EPCA.

A. Scope and Definition

DOE defines an automatic commercial ice maker as a factory-made assembly (not necessarily shipped in one package) that (1) consists of a condensing unit and ice-making section operating as an integrated unit, with means for making and harvesting ice; and (2) may include means for storing ice, dispensing ice, or storing and dispensing ice. 10 CFR 431.132.

1. Modulating Capacity Ice Maker

A modulating capacity ice maker is one designed to be capable of operating at multiple capacity levels. This modulation presumably could be accomplished by using a single compressor with multiple or variable capacity, using multiple compressors, or in some other manner. In the January 2012 ACIM TP final rule, DOE did not set a test method for measuring the energy use or water consumption of automatic commercial ice makers that are capable of operating at multiple capacities. 77 FR 1591, 1601–1602 (Jan. 11, 2012). The decision to exclude modulating capacity ice makers was based on the lack of existing automatic commercial ice makers with modulating capacity, as well as limited information regarding how such equipment would function. At this time, DOE is unaware of any such products that are currently available in the market. DOE is interested in whether modulating capacity ice makers are currently sold in the market and, if so, the design characteristics, operation, and testing of such equipment.

Issue 1: DOE requests comment on whether any modulating capacity ice makers are currently available in the market. If such products are currently available, DOE requests information on how such equipment functions, such as typical capacity ranges and the relative frequency of use at different capacity ranges, and how such equipment is currently tested.

B. Test Procedure

In accordance with the review process under 42 U.S.C. 6314(a)(1)(A), DOE has determined the test procedure potentially could be improved by modifying some of its provisions to more accurately or fully comply with the requirements in EPCA that a test procedure be reasonably designed to reflect energy use during a representative average use cycle and not be unduly burdensome to conduct.

1. Updates to Industry Standards

The existing DOE ACIM test procedure incorporates by reference AHRI 810–2007, which refers to test methods in ASHRAE Standard 29. The DOE test procedure additionally specifies that references to ASHRAE 29 in AHRI 810–2007 refer to ASHRAE 29–2009.[3] 10 CFR 431.134(b).

Since publication of the January 2012 ACIM TP final rule, both AHRI and ASHRAE have published new versions of the referenced standards. The most recent versions are AHRI 810–2016 and ASHRAE 29–2015. DOE has reviewed the most recent versions of both AHRI 810 and ASHRAE 29 and has compared the updated versions of these industry standards to those currently incorporated by reference in the ACIM test procedure. The updates published in ASHRAE 29–2015 provide additional specificity to several aspects of the test method. In general, DOE has tentatively determined that these updates increase the precision and improve the repeatability of the test method, but do not fundamentally change the testing process, ambient test conditions, or test results. In addition, ASHRAE made several grammatical, editorial, and formatting changes to improve the clarity of the test method. DOE has tentatively determined that these changes would not affect how the test is conducted. Table II.1 summarizes the primary substantive changes between ASHRAE 29–2009 and ASHRAE 29–2015.

TABLE II.1—SUMMARY OF CHANGES BETWEEN ASHRAE 29–2009 AND ASHRAE 29–2015

Requirement	ASHRAE 29–2009	ASHRAE 29–2015
Test Room Operations	None	No changes to the test room shall be made during operation of the ice maker under test that would impact the vertical ambient temperature gradient or the ambient air movement.
Temperature Measuring Instruments	Accuracy of ±1.0 °F and resolution of ≤2.0 °F	Accuracy and resolution of ±1.0 °F; where accuracy greater than ±1.0 °F, the resolution shall be at least equal to the accuracy requirement.
Harvest Water Collection	None	Harvest water shall be captured by a non-perforated pan located below the perforated pan.
Ice Collection Container Specifications	''Perforated pan, bucket, or wire basket'' and ''non-perforated pan or bucket''.	Requirements regarding water retention weight and perforation size for perforated pans and ''solid surface'' for non-perforated pan.
Pressure Measuring Instruments	None	Accuracy of and resolution of ±2.0% of the quantity measured.
Sampling Rate	None	Maximum interval between data samples of 5 sec.
Supply Water Temperature and Pressure	±1 °F (water supply temperature)	±1 °F (water supply temperature) and ''within specified range*'' (water pressure) during water fill interval.
Inlet Air Temperature Measurement	Measure a minimum of 2 places, centered 1 ft from the air inlet(s).	Measure at a location geometrically center to the inlet area at a distance 1 ft from each inlet.
Minimum Clearances	18 inches on all sides	3 ft or the minimum clearance allowed by the manufacturer, whichever is greater.

[3] The DOE ACIM test procedure also incorporates by reference ASHRAE 29–2009. 10 CFR 431.133.

TABLE II.1—SUMMARY OF CHANGES BETWEEN ASHRAE 29–2009 AND ASHRAE 29–2015—Continued

Requirement	ASHRAE 29–2009	ASHRAE 29–2015
Stabilization Criteria	Three consecutive 14.4 minute samples (continuous) taken within a 1.5 hr period or two consecutive batches (batch-type) where amount of harvested ice does not vary by more than ±2%.	Two consecutive 15.0 min ±2.5 sec samples taken within 5 mins of each other (continuous) within 2% or 0.055 lbs or two consecutive 24-hr calculated ice production rate from two consecutive batches (batch) where harvested ice is within ±2% or 2.2 lb.
Capacity Test Ice Collection	Three consecutive 14.4 min samples (continuous) or batches (batch).	Clarify that batch ice should be weighed 30 ±2.5 s after collection and continuous ice samples must be within 5 mins of each other.
Calorimetry Testing	For continuous type ice makers, collect sample size ''suitable for test'' and conduct calorimetry testing described in Appendix A.	Clarified that ice must be collected with non-perforated bin and that the sample size must be 6 lb or 15 mins of ice production, whichever is achieved first. Also, significant changes made to Appendix A to clarify the calibration of the calorimeter, test process, and calculation methods.
Recorded Data		Clarified that ambient temperature gradient (at rest), maximum air-circulation velocity (at rest), and water pressure must also be collected.

* AHRI 810–2007 specifies the inlet water pressure of 30.0 ±3.0 psig.

AHRI 810–2016 was also updated to include a definition, measurement, and reporting requirements for potable water use rate. These are discussed in more detail in section II.C.in this RFI. The other changes to AHRI 810–2016 are primarily clerical in nature, intended to provide greater consistency in the use of terms and specific definitions for those terms. The primary changes include updating the defined equipment varieties to be more consistent with DOE definitions, using the defined terms more consistently throughout the standard, and adding definitions for many of the reported quantities. AHRI 810–2016 also references the latest version of ASHRAE 29, ASHRAE 29–2015.

Based on DOE's review, the changes to AHRI 810–2016 and ASHRAE 29–2015 serve primarily to improve the consistency and specificity of the test procedure and would not fundamentally alter the test method or test parameters. As such, these updates would not result in a change to the measured energy consumption of covered equipment. DOE seeks comment and data on this preliminary determination.

Issue 2: DOE seeks comment on updating the DOE test procedure to incorporate by reference the latest industry standards: AHRI 810–2016 and ASHRAE 29–2015. Specifically, DOE requests comment on whether incorporating by reference these industry standards would more accurately reflect energy efficiency during a representative average use cycle or reduce testing burden. Additionally, DOE seeks comment on the benefits and burdens of adopting any industry/voluntary consensus-based or other appropriate test procedure, without modification.

DOE is aware of one aspect of ASHRAE 29 found in both the 2009 and 2015 versions that may need further instruction. For continuous type ACIM, the energy use and condenser water use are determined by multiplying the measured values by the ice hardness adjustment factor. The ice hardness factor is determined by following the procedure specified in the ''Method of Calorimetry'' in Normative Annex A of ANSI/ASHRAE 29–2009. Section A2 specifies that the calorimeter constant shall be no greater than 1.02. ASHRAE 29–2015 specifies that the calorimeter constant must be in the range of 1.0 to 1.02. DOE is aware that some third-party labs have had difficulty achieving the calorimeter constant requirements specified in ASHRAE 29–2009 (and therefore, also those specified in ASHRAE 29–2015). Amended instructions regarding the calorimeter constant may reduce testing burden while maintaining the accuracy of the test procedure.

Issue 3: DOE requests comment on whether further instruction is necessary to achieve the required calorimeter constant as specified in ASHRAE 29–2009 and ASHRAE 29–2015. DOE also seeks information on how manufacturers and third-party labs are currently testing and measuring the calorimeter constant for the ice hardness adjustment factor and if there are any best practices to ensure the calorimeter constant remains in the required range. Alternatively, DOE requests feedback on whether a wider range of allowable calorimeter constant would allow for less burden on manufacturers while still accurately measuring energy use during a representative average use cycle.

2. Other Updates to the Federal Test Method

a. Test Setup and Equipment Configuration

DOE is interested in learning if additional direction on how certain equipment should be configured for and operated during testing, including installation of temporary baffles and purge settings, may improve the accuracy of the test procedure and reduce testing burden.

Temporary Baffles

After publication of the January 2012 TP final rule, DOE received an inquiry as to whether the DOE test procedure allows for temporary air baffles to be installed between the ACIM condenser air discharge and condenser air inlet. DOE issued final test procedure guidance on September 24, 2013 (''2013 baffle guidance''), regarding the use of temporary baffles during testing.[4] As described in the 2013 baffle guidance, a

[4] See *https://www1.eere.energy.gov/buildings/appliance_standards/pdfs/acim_baffles_faq_2013-9-24final.pdf* (2013 baffle guidance).

baffle is a partition, usually made of a flat material such as cardboard, plastic, or sheet metal, that reduces or prevents recirculation of warm air from an ice maker's air outlet to its air inlet. Temporary baffles refer to those installed only temporarily during testing and are not part of the ACIM model as distributed in commerce or installed in the field. During testing, the use of temporary baffles can block recirculation of warm condenser discharge air to the cooling air inlet. The purpose of installing a temporary baffle could be, for example, to limit potential temperature fluctuations at the condenser air inlet, where the ambient temperature is measured and maintained within the required conditions. However, such a baffle could also reduce the average temperature of the air entering the inlet, thereby resulting in lower measured energy use compared to testing without a baffle. Therefore, installing a temporary baffle for testing may result in a measured energy use that is not representative of the energy use of the unit as operated by the end user. DOE also determined that installing such temporary baffles is inconsistent with the ACIM test procedure, which states that the unit must be ''set up for testing per the manufacturer's written instruction provided with the unit'' and that ''no adjustments of any kind shall be made to the test unit prior to or during the test that would affect the ice capacity, energy usage, or water usage of the test sample.'' [5] Further, ''heat exchangers and other accessories shall be used only if they are part of standard equipment furnished with the model tested.'' [6] Therefore, DOE's final guidance states that the use of temporary baffles to prevent recirculation of air between the air outlet and inlet of the ice maker during testing is not consistent with the DOE test procedure for automatic commercial ice makers, unless the baffle is (a) a part of the ice maker or (b) shipped with the ice maker to be installed according to the manufacturer's installation instructions. The guidance also states that temperature measuring devices may be shielded so that the indicated temperature will not be affected by the intermittent passing of warm discharge air at the measurement location. However, the shields must not block recirculation of this air into the condenser or ice maker inlet.

Issue 4: DOE is considering amending the ACIM test procedure to explicitly state that temporary baffles may not be used for testing, unless the baffle is (a) part of the ice maker or (b) shipped with the ice maker to be installed according to manufacturers' installation instructions. DOE requests comment on whether manufacturers and test laboratories currently test consistent with the 2013 baffle guidance and whether any further instructions are needed.

Purge Settings

Purge water refers to water that is introduced into the ice maker during an ice-making cycle, in addition to the water that becomes ice, in order to flush dissolved solids out of the ice maker and prevent scale buildup on the ice maker's wetted surfaces. Ice makers generally allow for setting the purge water controls to provide different amounts of purge water or different frequencies of purge cycles. Different amounts of purge water may be appropriate for different locations based on the level of hardness or contaminants in the ACIM water supply. Most ice makers have manually set purge settings that provide a fixed amount of purge water, but some ice makers include an automatic purge water control setting that automatically adjusts the purge water quantity based on the supply water hardness. Neither AHRI 810–2016 nor ASHRAE 29–2015 indicate how to set a purge water control that provides multiple purge water settings.

Since purge water is cooled by the ice maker, it contributes to energy use during a representative average use cycle. To ensure accurate, representative test results for ice makers with automatic purge water controls, on September 25, 2013, DOE issued final guidance stating that ice makers with automatic purge water control should be tested using a fixed purge water setting [7] that is described in the automatic commercial ice maker's written instructions shipped with the unit as being appropriate for water of normal, typical, or average hardness.

DOE also recognizes that some ice makers, both batch and continuous type models, may introduce additional purges outside of regular cycling (for batch ice makers) or continuous operation (for continuous ice makers). This may occasionally increase the purge water quantity in a way that may not be captured by the current ACIM test procedure. For example, batch ice makers might initiate an extra flush or purge cycle every 12 hours, and continuous ice makers might pause the ice making operation periodically to accomplish the additional purge. Testing according to the current test procedure may not include such a purge cycle, and thus the resulting tested energy use may not accurately represent an average use cycle. Neither ASHRAE 29–2015, nor the prior version, AHSRAE 29–2009, which is incorporated by reference in the DOE test procedure, addresses the possibility of operational events that do not occur continuously or with every cycle. ASHRAE 29–2015 states only in section 7.1.1 that the ice maker must be stable for capacity test data to be valid, and defining this stability as two consecutive cycles (for batch ice makers) or two consecutive 15-minute periods (for continuous ice makers) with a harvest weight difference of no more than 2 percent.

Issue 5: DOE requests comment on whether purge settings affect measured energy use during a representative average use cycle. If purge settings do affect measured energy use, DOE also requests comment on (1) what purge settings should be considered for testing for ACIM equipment with multiple or automatic purge settings, and (2) whether any ACIM models exist that have automatic purge settings but do not have a fixed purge setting appropriate for ''normal'' water hardness and, if such a unit exists, how it should be tested.

Issue 6: DOE requests comment on the presence and frequency of any ''additional'' or ''increased-water'' purge cycles and their impact on energy and potable water use and/or condenser water use. DOE also requests comment on how the test procedure could be modified, if necessary, to more accurately measure this energy use during a representative average use cycle.

Remote Condensing Ice Makers

Remote condensing ice maker means a type of automatic commercial ice maker in which the ice-making mechanism and condenser or condensing unit are in separate sections. 10 CFR 431.132. This includes both ''Remote Condensing (but not remote compressor),'' and ''Remote Condensing and Remote Compressor'' ice makers. The DOE test procedure and industry test procedures, both those currently incorporated by reference and the most recently updated standards, require setting up the ice maker in accordance with the manufacturer's recommendations. AHRI 810 includes the requirement to install remote condensing ice makers with at least 25

[5] Section 4.1.4, ''Test Set Up,'' of AHRI 810–2016.

[6] Section 6.9, ''Test Methods,'' of ASHRAE 29–2015.

[7] See *https://www1.eere.energy.gov/buildings/appliance_standards/pdfs/acim_purge_faq_2013-9-25final.pdf*.

feet of interconnection tubing on each line. Otherwise, there are no specific instructions for remote condensing ice makers. Certain remote ice makers are typically paired with pre-charged refrigerant lines for installation with the condenser or condensing unit. However, if a pre-charged line set is not recommended by the manufacturer, additional line set specifications and charging instructions may be needed for testing.

Additionally, it is possible that manufacturers may not always recommend a specific condensing unit to be paired with each remote condensing ice maker model. Based on a review of the market, DOE is aware of continuous remote condensing ice makers that are meant to be connected to a compressor rack instead of a single paired condensing unit. For other remote condensing equipment with a similar setup, for example, commercial refrigeration equipment, the test procedure relies on a refrigerant enthalpy calculation and assumed compressor efficiency based on evaporator temperature to estimate the energy consumption of a compressor rack refrigeration system. A similar approach may be appropriate for remote condensing ice makers intended to be installed without a dedicated condensing unit. Such a configuration would also require additional test instructions regarding appropriate refrigerants and representative refrigerant conditions.

Issue 7: DOE requests comment on whether the current test procedure could be improved to more accurately measure energy use during a representative average use cycle for remote condensing ice makers with dedicated condensing units. For example, DOE requests feedback on whether default refrigerant charging and line set specifications would be necessary absent manufacturer recommendations. DOE also seeks information on whether any additional test instructions would be needed for remote condensing ice makers.

Issue 8: DOE also requests comment on the appropriate test approach for those ice makers intended to be installed without a dedicated condensing unit. DOE seeks feedback on what types of these units are available on the market (*i.e.,* batch vs. continuous), whether an enthalpy test approach similar to that used for commercial refrigeration equipment would be appropriate for testing these ice makers, and if so, any additional instructions that would be needed for such testing.

b. Test Conditions

The ACIM test procedure specifies standard test conditions to ensure that results reflect energy use during a representative average use cycle and are not unduly burdensome for manufacturers to perform. DOE seeks comment on whether modifications to these standard test conditions could improve the accuracy of the test procedure or reduce testing burden, as discussed further in the following sections.

Relative Humidity

Variation in the moisture content of ambient air may affect the energy consumption of ice makers. However, AHRI 810 and ASHRAE 29 do not specify a standard condition or tolerance for relative humidity or wet bulb temperature. In contrast, test procedures for most other refrigeration equipment specify these values. Table II.2 summarizes relative humidity and wet bulb temperature specifications for commercial refrigeration equipment and refrigerated beverage vending machines. DOE is interested in understanding: (1) Whether specifying a standard condition or tolerance for relative humidity or wet bulb temperature may improve the accuracy of the test procedure, and (2) how adding this test condition may affect testing burden.

TABLE II.2—RELATIVE HUMIDITY & WET BULB TEMPERATURE SPECIFICATIONS FOR REFRIGERATION EQUIPMENT

Equipment type	Test standard	Relative humidity	Wet bulb temperature
Commercial Refrigeration Equipment	ASHRAE 72	* 49–62%	62.6–66.2 °F
Refrigerated Beverage Vending Machines	ASHRAE 32.1	40–50%	* 59–63 °F

* Equivalent value. ASHRAE 72 specifies wet bulb temperature, while ASHRAE 32.1 specifies relative humidity.

Issue 9: DOE requests comment on (1) how moisture content of ambient air impacts ACIM performance, and (2) the burden of specifying a humidity range during testing.

Water Hardness

Currently, water hardness is not a specified test condition under AHRI 810 and ASHRAE 29. Based on testing observed and reviewed by DOE and industry feedback, hard water can affect energy consumption in the field due to variation in purge settings and scale build up on the heat exchanger surfaces over time. However, hard water may also impact the tested performance, as harder water has a greater concentration of total dissolved solids and chemical ions, which decreases the freezing temperature of water and could potentially increase energy use. DOE is interested in whether specifying water hardness (the quantity of dissolved solids in the water) as a testing condition is necessary to ensure the test procedure is reasonably designed to produce test results that measure energy efficiency during a representative average use cycle or period of use.

In the January 2012 ACIM TP final rule, DOE declined to set requirements for water hardness as DOE did not have sufficient information to allow proper consideration of such a requirement. Specifically, DOE did not have information regarding the impact of variation in water hardness on as-tested performance of ACIM equipment and, as such, did not believe the additional burden associated with establishing a standardized water hardness requirement could be justified at that time. 77 FR 1591, 1605–1606 (Jan. 11, 2012). Through testing conducted since the January 2012 ACIM TP final rule, DOE has found that water hardness may impact the tested results for an ACIM basic model and is interested in seeking feedback from interested parties on how it should be considered, if at all, in any potential test procedure revisions. Recognizing that including specifications for water hardness in the test procedure could add burden, DOE is also interested in determining the relative benefits of determining an appropriate target value or range for testing as compared to the test burden it might add.

Issue 10: DOE requests information regarding (1) the impact of total dissolved solids and ion concentration on measured energy and water use during the limited operation associated with testing during a representative

average use cycle (*i.e.,* before significant scaling of solids onto ice maker surfaces has occurred), (2) any experience manufacturers have testing ACIM equipment with prepared solutions of known water hardness, and (3) the effect a water hardness test condition would have on testing burden.

Ambient and Inlet Water Temperatures

The current ACIM test procedure incorporates by reference AHRI 810–2007, which specifies an ambient temperature of 90 °F and a supply water temperature of 70 °F. AHRI 810–2016 provides the same specifications. However, many ice makers may be installed in conditioned environments such as offices, schools, hospitals, hotels, and convenience stores (see 80 FR 4646, 4700; Jan. 28, 2015), which may have ambient air temperatures closer to 70 °F and supply water temperatures closer to 50 °F.

Issue 11: DOE requests comment on the whether the ambient air temperature and water supply temperature specified in AHRI 810–2016, and in the current DOE test procedures, are appropriately representative of those temperatures during an average use cycle or whether different temperature specifications should be considered. In particular, DOE requests data and information describing the ambient air temperature and supply water temperature of different applications at which ACIM equipment are operated.

Ambient Temperature Gradient

DOE is also specifically reviewing the requirements for ambient temperature gradient, which may have an impact on tested energy use. The current ACIM test procedure incorporates by reference section 5.1.1 of ASHRAE 29–2009, which stipulates that, with the ice maker at rest, the vertical ambient temperature gradient in any foot of vertical distance from 2 inches above the floor or supporting platform to a height of 7 ft above the floor, or to a height of 1 ft above the top of the ice maker cabinet, whichever is greater, shall not exceed 0.5 °F/ft. This requirement is identical in section 5.1.1 of ASHRAE 29–2015, which is incorporated by reference in AHRI 810–2016. DOE notes that this language is based on test room requirements for residential refrigerators, as specified in section 7.2 of ANSI–AHAM Standard HRF–1–1979, ''Household Refrigerators, Combination Refrigerator-Freezers, and Household Freezers'' (''ANSI/AHAM HRF–1–1979''), the version of the AHAM standard that was incorporated by reference in the DOE test procedure for residential refrigerators in a final rule published August 10, 1982. 47 FR 34517. DOE notes further that DOE modified the requirements associated with temperature gradient for residential refrigerators, in a final rule published April 21, 2014, to remove the reference to a 7 ft height requirement and only require the gradient be maintained to a height 1 ft higher than the top of the unit. 79 FR 22320. DOE is interested in understanding the applicability of the air temperature gradient requirements to ice makers, and whether a similar modification, or any other modifications, would improve the accuracy of the test procedure or reduce testing burden.

Issue 12: DOE requests comment on how manufacturers are demonstrating compliance with the temperature gradient requirements of section 5.1.1 of ASHRAE 29–2015. DOE seeks feedback on whether updates consistent with the temperature gradient requirements for consumer refrigeration products would be appropriate for the ACIM test procedure, and whether such updates would reduce test variability and testing burden.

Weighting of Ambient Temperature Measuring Instruments

ASHRAE 29 states that the average ambient temperature shall not vary by more than 2 °F from the specified temperature during the first five minutes of each freeze cycle, and not vary by more than 1 °F thereafter. However, the current ACIM test procedure, which is based on AHRI 810 and ASHRAE 29, does not indicate whether ambient temperature measuring instruments should be weighted with a thermal mass. The use of a weighted temperature measurement instrument reduces the fluctuations in temperature measurement, making it easier to meet the stability criteria relative to an unweighted temperature measurement instrument.

Issue 13: DOE requests comment on whether manufacturers typically use weighted or unweighted temperature measurement instruments to measure ambient temperatures during ice maker testing. In addition, DOE requests comment on reduction in fluctuation when using weighted temperature measurement instruments compared to unweighted temperature measurement instruments. DOE also seeks comment and data on benefit and burdens of using unweighted temperature measurement instruments compared to weighted temperature measurement instruments.

c. Test Accuracy and Repeatability

As discussed in section I.A, EPCA requires that test procedures be reasonably designed to produce test results that reflect the energy efficiency, energy use, and estimated operating costs (as applicable) of a type of industrial equipment during a typical cycle of use and not be unduly burdensome to conduct. (42 U.S.C. 6314(a)(2)) The accuracy and repeatability of the ACIM test procedure are important to consider to ensure that test results are representative of typical energy consumption in the field. DOE notes that the current ACIM test procedure incorporates by reference AHRI 810–2007 and ASHRAE 29–2009 to specify the aforementioned measurement methods, tolerances, and accuracies. These specifications have not changed in the most recent versions of these standards, namely AHRI 810–2016 and ASHRAE 29–2015. DOE is interested in whether it should consider modifications to existing test condition tolerances, instrumentation accuracies, and temperature measurement methods that would improve accuracy and precision in test results.

For example, specifying tighter tolerances and/or more accurate measurement equipment can lead to increased accuracy in measuring energy use. However, doing so may also increase the burden associated with testing due to the added cost of higher-precision instruments or increased testing time to achieve tighter tolerances. DOE is therefore interested in getting feedback from interested parties on the technical feasibility or burden associated with reducing the uncertainty in those variables.

Issue 14: DOE requests comment on the potential improvement in testing accuracy and increase in testing burden and costs associated with tightening the tolerances and increasing the instrumentation accuracies specified by the current ACIM test procedure.

C. Industry Test Method Harmonization

The industry test methods incorporated by reference by the DOE ACIM test procedure, ASHRAE 29 and AHRI 810, added measurement and reporting requirements for potable water use. This measurement is not required by the current DOE test procedure, but is required by other programs, such as ENERGY STAR [8] and the AHRI

[8] The ENERGY STAR specification for automatic commercial ice makers is currently under revision. A draft specification is available at *https://www.energystar.gov/products/spec/commercial_ice_makers_specification_version_3_0_pd.*

certification program.[9] Since DOE establishes test procedures for the ENERGY STAR program, DOE is interested in seeking feedback from interested parties about whether any updates to the test method for potable water use are needed at this time, including any that may reduce the burden of the current method.

In the January 2012 ACIM TP final rule, DOE declined to establish a test procedure or metric for non-condenser potable water use and noted that no statutory authority to do so exists under EPCA. 77 FR 1591, 1604–1605 (Jan. 11, 2012). Specifically, EPCA prescribes standards for condenser water use in cube type ice makers at 42 U.S.C. 6313(d)(1) and explicitly states that prescribed standard levels for condenser water use ''does not include potable water used to make ice.'' EPCA allows, but does not require, the Secretary to issue analogous standards for other types of automatic commercial ice makers under 42 U.S.C. 6313(d)(2). 77 FR 1591, 1605 (Jan. 11, 2012). In general, DOE assumes ice makers that use less potable water would be expected to use less energy, because they have to cool less water. In the January 2012 ACIM TP final rule, DOE stated that, while there is generally a correlation between energy use and potable water use, at a certain point of reduced potable water use, the relationship between potable water use and energy consumption reverses due to scaling. *Id.*

DOE reviewed the relationship between potable water use and both harvest rate and daily energy consumption by analyzing reported ACIM data from the AHRI directory and the ENERGY STAR product database.[10] [11] DOE observed that all manufacturers of continuous ice-makers report a consistent amount of potable water use per 100 pounds of ice—between 11.9 and 12.0 gallons—because all of the water is converted to produce ice. In contrast, potable water use varies for batch type ice makers, because a portion of the potable water is drained from the sump at the end of each ice-making cycle; this portion is different for different ice maker models. The relationship between potable water use and daily energy consumption of the AHRI and ENERGY STAR data is not identifiable when considering the entire dataset. Thus, DOE is interested in seeking feedback on any potential relationship between potable water use and daily energy consumption and whether, and how, this relationship impacts consumer utility of ACIMs, for example, by affecting the quality of ice produced.

Issue 15: DOE requests comment and information on the relationship between potable water use and energy use, including data quantifying the relationship. Additionally, DOE requests comment and information on any potential impact that this relationship has on possible consumer utility.

D. Standby Energy Use

The existing ACIM test procedure considers only active mode energy use when an ice maker is actively producing ice and reflects that consumption using a metric of energy use per 100 pounds of ice. The existing ACIM test procedure does not address standby energy use associated with continuously powered sensors and controls or ice storage. However, when not actively making ice, an ice maker continues to consume energy to power sensors and controls. In this way, standby energy use from control devices impact the daily energy consumption of ACIM equipment.

Issue 16: DOE requests data and information on the magnitude of energy use associated with standby energy use, as well as the relationship of such values to daily energy consumption of ACIM equipment.

E. Other Test Procedure Topics

In addition to the issues identified earlier in this document, DOE welcomes comment on any other aspect of the existing test procedures for ACIM that could be improved to more accurately reflect energy use during a representative average use cycle or reduce testing burden. DOE particularly seeks information that would improve the repeatability, reproducibility, and consumer representativeness of the test procedures. DOE also requests information that would help DOE create a procedure that would limit manufacturer test burden through streamlining or simplifying testing requirements. Comments regarding the repeatability and reproducibility are also welcome.

DOE also requests feedback on any potential amendments to the existing test procedure(s) that could be considered to address impacts on manufacturers, including small businesses. Regarding the Federal test method, DOE seeks comment on the degree to which the DOE test procedure should consider and be harmonized with the most recent relevant industry standards for ACIM and whether there are any changes to the Federal test method that would provide additional benefits to the public. DOE also requests comment on the benefits and burdens of adopting any industry/voluntary consensus-based or other appropriate test procedure, without modification. DOE notes that AHRI 810, which references ASHRAE 29, does not include test specifications that may impact energy use (*e.g.,* relative humidity) and includes specifications that may not be representative of field use (*e.g.,* ambient and inlet water temperature).

Additionally, DOE requests comment on whether the existing test procedure limits a manufacturer's ability to provide additional features to consumers on ACIM. DOE particularly seeks information on how the test procedure could be amended to reduce the cost of new or additional features and make it more likely that such features are included on ACIM.

III. Submission of Comments

DOE invites all interested parties to submit in writing by April 18, 2019, comments and information on matters addressed in this document and on other matters relevant to DOE's consideration of amended test procedures for ACIM. These comments and information will aid in the development of a test procedure NOPR for ACIM if DOE determines that amended test procedures may be appropriate for this equipment.

Submitting comments via *http://www.regulations.gov.* The *http://www.regulations.gov* web page will require you to provide your name and contact information. Your contact information will be viewable to DOE Building Technologies staff only. Your contact information will not be publicly viewable except for your first and last names, organization name (if any), and submitter representative name (if any). If your comment is not processed properly because of technical difficulties, DOE will use this information to contact you. If DOE cannot read your comment due to technical difficulties and cannot contact you for clarification, DOE may not be able to consider your comment.

However, your contact information will be publicly viewable if you include it in the comment or in any documents attached to your comment. Any information that you do not want to be publicly viewable should not be included in your comment, nor in any document attached to your comment. Persons viewing comments will see only first and last names, organization

[9] *http://www.ahrinet.org/Certification.aspx.*

[10] Available at: *https://www.ahridirectory.org/ahridirectory/pages/acim/defaultSearch.aspx.*

[11] Available at: *https://www.energystar.gov/productfinder/product/certified-commercial-ice-machines/results.*

names, correspondence containing comments, and any documents submitted with the comments.

Do not submit to *http://www.regulations.gov* information for which disclosure is restricted by statute, such as trade secrets and commercial or financial information (hereinafter referred to as Confidential Business Information (CBI)). Comments submitted through *http://www.regulations.gov* cannot be claimed as CBI. Comments received through the website will waive any CBI claims for the information submitted. For information on submitting CBI, see the Confidential Business Information section.

DOE processes submissions made through *http://www.regulations.gov* before posting. Normally, comments will be posted within a few days of being submitted. However, if large volumes of comments are being processed simultaneously, your comment may not be viewable for up to several weeks. Please keep the comment tracking number that *http://www.regulations.gov* provides after you have successfully uploaded your comment.

Submitting comments via email, hand delivery, or mail. Comments and documents submitted via email, hand delivery, or mail also will be posted to *http://www.regulations.gov.* If you do not want your personal contact information to be publicly viewable, do not include it in your comment or any accompanying documents. Instead, provide your contact information on a cover letter. Include your first and last names, email address, telephone number, and optional mailing address. The cover letter will not be publicly viewable as long as it does not include any comments.

Include contact information each time you submit comments, data, documents, and other information to DOE. If you submit via mail or hand delivery, please provide all items on a CD, if feasible. It is not necessary to submit printed copies. No facsimiles (faxes) will be accepted.

Comments, data, and other information submitted to DOE electronically should be provided in PDF (preferred), Microsoft Word or Excel, WordPerfect, or text (ASCII) file format. Provide documents that are not secured, written in English and free of any defects or viruses. Documents should not contain special characters or any form of encryption and, if possible, they should carry the electronic signature of the author.

Campaign form letters. Please submit campaign form letters by the originating organization in batches of between 50 to 500 form letters per PDF or as one form letter with a list of supporters' names compiled into one or more PDFs. This reduces comment processing and posting time.

Confidential Business Information. According to 10 CFR 1004.11, any person submitting information that he or she believes to be confidential and exempt by law from public disclosure should submit via email, postal mail, or hand delivery two well-marked copies: One copy of the document marked confidential including all the information believed to be confidential, and one copy of the document marked ''non-confidential'' with the information believed to be confidential deleted. Submit these documents via email or on a CD, if feasible. DOE will make its own determination about the confidential status of the information and treat it according to its determination.

Factors of interest to DOE when evaluating requests to treat submitted information as confidential include (1) a description of the items, (2) whether and why such items are customarily treated as confidential within the industry, (3) whether the information is generally known by or available from other sources, (4) whether the information has previously been made available to others without obligation concerning its confidentiality, (5) an explanation of the competitive injury to the submitting person which would result from public disclosure, (6) when such information might lose its confidential character due to the passage of time, and (7) why disclosure of the information would be contrary to the public interest.

It is DOE's policy that all comments may be included in the public docket, without change and as received, including any personal information provided in the comments (except information deemed to be exempt from public disclosure).

DOE considers public participation to be a very important part of the process for developing test procedures and energy conservation standards. DOE actively encourages the participation and interaction of the public during the comment period in each stage of this process. Interactions with and between members of the public provide a balanced discussion of the issues and assist DOE in the process. Anyone who wishes to be added to the DOE mailing list to receive future notices and information about this process should contact Appliance and Equipment Standards Program staff at (202) 287–1445 or by email: *ApplianceStandardsQuestions@ee.doe.gov.*

Signed in Washington, DC, on March 7, 2019.

Steven Chalk,

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

[FR Doc. 2019–05131 Filed 3–18–19; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 121

[Docket No. FDA–2018–D–1398]

Mitigation Strategies To Protect Food Against Intentional Adulteration: Draft Guidance for Industry; Public Meeting; Request for Comments

AGENCY: Food and Drug Administration, HHS.

ACTION: Notification of public meeting; request for comments.

SUMMARY: The Food and Drug Administration (FDA, the Agency, or we) is announcing a public meeting entitled ''Mitigation Strategies to Protect Food Against Intentional Adulteration: Draft Guidance for Industry.'' The purpose of the public meeting is to discuss the draft guidance for compliance and implementation of the ''Mitigation Strategies to Protect Food Against Intentional Adulteration'' rule, which was issued under the FDA Food Safety Modernization Act.

DATES: The public meeting will be held on April 17, 2019 (from 8:30 a.m. to 2 p.m.). Submit either electronic or written comments on this public meeting by July 5, 2019, in order for comments to be considered before work begins on the final guidance. See the **SUPPLEMENTARY INFORMATION** section for registration date and information.

ADDRESSES: The public meeting will be held at the Food and Drug Administration, Center for Food Safety and Applied Nutrition, Harvey Wiley Building Auditorium (First Floor), 5001 Campus Dr., College Park, MD 20740. Public meeting participants (non-FDA employees) will undergo routine security check procedures.

You may submit comments as follows. Please submit comments by July 5, 2019, for your comments to be considered before we begin work on the final guidance.

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–1398 for ''Mitigation Strategies to Protect Food Against Intentional Adulteration: Draft Guidance for Industry.'' 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.

FOR FURTHER INFORMATION CONTACT:

For questions about registering for the meeting or to register by phone: Melissa Schroeder, SIDEM, 1775 Eye St. NW, Ste. 1150, Washington, DC 20006, 240–393–4496, *EventSupport@Sidemgroup.com.*

For general questions about the meeting, to request an opportunity to make oral comments or to request special accommodations due to a disability: Juanita Yates, Center for Food Safety and Applied Nutrition, (HFS–009), Food and Drug Administration, 5001 Campus Dr., College Park, MD 20740, 240–402–1731, *Juanita.Yates@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The Mitigation Strategies to Protect Food Against Intentional Adulteration rule (IA rule, 21 CFR part 121, published in the **Federal Register** of May 27, 2016, 81 FR 34165) requires domestic and foreign food facilities that are required to register under the Federal Food, Drug, and Cosmetic Act (FD&C Act) to address hazards that may be introduced with the intention to cause wide scale public health harm. These food facilities are required to conduct a vulnerability assessment to identify significant vulnerabilities and actionable process steps and implement mitigation strategies to significantly minimize or prevent significant vulnerabilities identified at actionable process steps in a food operation. The rule is part of the Agency's ongoing efforts to implement the FDA Food Safety Modernization Act (FSMA; Pub. L. 111–353).

In the **Federal Register** of June 20, 2018 (83 FR 28651), we announced the first installment of the draft guidance on complying with the IA rule, ''Mitigation Strategies to Protect Food Against Intentional Adulteration: Draft Guidance for Industry.'' More recently, in the **Federal Register** of March 6, 2019 (84 FR 8103), we announced the availability of the second installment of the draft guidance. Both installments provide information on and recommendations for compliance with important requirements of the IA rule. The comment period on both installments of the draft guidance is open until July 5, 2019, for comments to be considered before work in begun on a final guidance.[1]

FDA is announcing a public meeting entitled, ''Mitigation Strategies to Protect Food Against Intentional Adulteration: Draft Guidance for Industry.'' The meeting will be held during the comment period on the draft guidance.

While oral presentations from specific individuals and organizations will be necessarily limited due to time constraints during the public meetings, stakeholders may submit electronic or written comments discussing any issues of concern to the administrative record (the docket) for the draft guidance (Docket No. FDA–2018–D–1398).

II. Purpose and Format of the Public Meeting

The purpose of the public meeting is to provide information and facilitate comments so that stakeholders can better evaluate and provide input on the draft guidance. We invite interested parties to provide information and offer comments related to the IA rule draft guidance. During the public meeting, we will present information on the draft guidance, with emphasis on chapters related to rule requirements for vulnerability assessments; mitigation

[1] Under FDA's Good Guidance Practices regulation, anyone may comment on an FDA guidance document at any time (*see* 21 CFR 10.115(g)(5)).

strategies; food defense monitoring; and education, training, or experience. There will be an opportunity for questions, as well as an opportunity for open public comment.

III. Participating in the Public Meeting

Registration: To register for the public meeting, please visit the following website by April 10, 2019: *https://www.fda.gov/Food/NewsEvents/WorkshopsMeetingsConferences/default.htm.* Please provide complete contact information for each attendee, including name, title, affiliation, address, email, and telephone.

Registration is free and based on space availability. Persons interested in attending this public meeting must register by April 10, 2019, 11:59 p.m. Eastern Time. Early registration is recommended because seating is limited; therefore, FDA may limit the number of participants from each organization. Registrants will receive confirmation when they have been accepted. If time and space permit, onsite registration on the day of the public meeting will be provided beginning at 8 a.m. We will let registrants know if registration closes before the day of the public meeting.

For questions about registering for the meeting or to register by phone, please contact Melissa Schroeder (see **FOR FURTHER INFORMATION CONTACT**).

If you need special accommodations due to a disability, please contact Juanita Yates, (see **FOR FURTHER INFORMATION CONTACT**) no later than March 28, 2019.

Requests for Oral Presentations: During online or telephone registration you may indicate if you wish to present during a public comment session or participate in a specific session, and which topic(s) you wish to address. We will do our best to accommodate requests to make public comments. Individuals and organizations with common interests are urged to consolidate or coordinate their presentations, and request time for a joint presentation, or submit requests for designated representatives to participate in the focused sessions. Following the close of registration, we will determine the amount of time allotted to each presenter and the approximate time each oral presentation is to begin, and will select and notify participants by April 3, 2019. All requests to make oral presentations must be received by March 28, 2019. No commercial or promotional material will be permitted to be presented or distributed at the public meeting.

Streaming Webcast of the Public Meeting: This public meeting will also be webcast. *https://www.fda.gov/Food/NewsEvents/WorkshopsMeetingsConferences/default.htm.*

If you have never attended a Connect Pro event before, test your connection at *https://collaboration.fda.gov/common/help/en/support/meeting_test.htm.* To get a quick overview of the Connect Pro program, visit *https://www.adobe.com/go/connectpro_overview.* FDA has verified the website addresses in this document, as of the date this document publishes in the **Federal Register**, but websites are subject to change over time.

Transcripts: Please be advised that as soon as a transcript of the public meeting is available, it will be accessible at *https://www.regulations.gov.* It may also be viewed at the Dockets Management Staff (see **ADDRESSES**). A link to the transcript will also be available on the internet at *https://www.fda.gov/Food/NewsEvents/WorkshopsMeetingsConferences/default.htm.*

Dated: March 14, 2019.

Lowell J. Schiller,

Acting Associate Commissioner for Policy.

[FR Doc. 2019–05149 Filed 3–18–19; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 573

[Docket No. FDA–2017–F–0969]

Food Additives Permitted in Feed and Drinking Water of Animals; Spent Bleaching Clay

AGENCY: Food and Drug Administration, HHS.

ACTION: Notification; petition for rulemaking; amendment.

SUMMARY: The Food and Drug Administration (FDA, the Agency, or we) is amending a notice of petition announcing that the Canadian Oilseed Processors Association has filed a petition proposing that the food additive regulations be amended to provide for the safe use of spent bleaching clay as a flow agent in canola meal for all livestock and poultry species. Additionally, the petition proposes that the regulations be amended to provide for the safe use of silicon dioxide and diatomaceous earth for use as components of spent bleaching clay. This petition included a request for categorical exclusion, but after review we determined the petitioner should prepare an environmental assessment (EA). The petitioner has prepared and submitted an EA, which at this time is being placed in the docket for public review and comment.

DATES: Submit either electronic or written comments on the petitioner's environmental assessment by April 18, 2019.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. Electronic comments must be submitted on or before April 18, 2019. The *https://www.regulations.gov* electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of April 18, 2019. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as

well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2017–F–0969 for ''Food Additives Permitted in Feed and Drinking Water of Animals; Spent Bleaching Clay.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

• Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Chelsea Trull, Center for Veterinary Medicine, Food and Drug Administration, (HFV–224), 7519 Standish Pl., Rockville, MD 20855, 240–402–6729, *chelsea.trull@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: Under section 409(b)(5) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 348(b)(5)), notice was given in the **Federal Register** of April 18, 2017 (82 FR 18268), that a food additive petition (FAP 2299) has been filed by the Canadian Oilseed Processors Association, 404–167 Lombard Ave., Winnipeg MB R3B 0T6, Canada. The petition proposes to amend Title 21 of the Code of Federal Regulations (CFR) in part 573 *Food Additives Permitted in Feed and Drinking Water of Animals* (21 CFR part 573) to provide for the safe use of spent bleaching clay as a flow agent in canola meal for all livestock and poultry species. Additionally, the submission proposes that the existing regulations be amended to provide for the safe use of silicon dioxide (21 CFR 573.940) and diatomaceous earth (21 CFR 573.340) for use as components of spent bleaching clay.

This petition included a request for categorical exclusion, but after review we determined the proposed action on spent bleaching clay does not meet the criteria for a categorical exclusion under 21 CFR 25.32(r). The petitioner has prepared and submitted an EA.

We are reviewing the potential environmental impact of this petition. To encourage public participation consistent with regulations issued under the National Environmental Policy Act (40 CFR 1501.4(b)), we are placing the EA submitted with the petition that is the subject of this notice on public display at the Dockets Management Staff (see **DATES** and **ADDRESSES**) for public review and comment.

We will also place on public display, at the Dockets Management Staff and at *https://www.regulations.gov,* any amendments to, or comments on, the petitioner's EA without further announcement in the **Federal Register**. If, based on our review, we find that an environmental impact statement is not required, and this petition results in a regulation, we will publish the notice of availability of our finding of no significant impact and the evidence supporting that finding with the regulation in the **Federal Register** in accordance with 21 CFR 25.51(b).

Dated: March 13, 2019.

Lowell J. Schiller,

Acting Associate Commissioner for Policy.

[FR Doc. 2019–05103 Filed 3–18–19; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF THE TREASURY

Alcohol and Tobacco Tax and Trade Bureau

27 CFR Parts 4, 5, 7, 14, and 19

[Docket No. TTB–2018–0007; Notice No. 176A; Re: Notice No. 176]

RIN 1513–AB54

Modernization of the Labeling and Advertising Regulations for Wine, Distilled Spirits, and Malt Beverages; Comment Period Extension

AGENCY: Alcohol and Tobacco Tax and Trade Bureau, Treasury.

ACTION: Notice of proposed rulemaking; extension of comment period.

SUMMARY: The Alcohol and Tobacco Tax and Trade Bureau (TTB) is extending for an additional 90 days the comment period for the notice of proposed rulemaking published November 26, 2018, entitled, Modernization of the Labeling and Advertising Regulations for Wine, Distilled Spirits, and Malt Beverages. TTB is taking this action in response to requests made by several alcohol beverage industry associations.

DATES: For Notice No. 176, a proposed rule published on November 26, 2018 (83 FR 60562), comments are now due on or before June 26, 2019.

ADDRESSES: Please send your comments on Notice No. 176 to one of the following addresses:

• *Internet: https://www.regulations.gov* (via the online comment form for Notice No. 176 as posted within Docket No. TTB–2018–0007 at ''*Regulations.gov*,'' the Federal e-rulemaking portal);

• *U.S. mail:* Director, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street NW, Box 12, Washington, DC 20005; or

• *Hand delivery/courier in lieu of mail:* Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street NW, Suite 400, Washington, DC 20005.

See the Public Participation section of Notice No. 176 for specific instructions and requirements for submitting comments and for information on how to request a public hearing.

You may view copies of Notice No. 176, this document, selected supporting materials, and all public comments associated with Notice No. 176 within Docket No. TTB–2018–0007 on the *Regulations.gov* website at *https://www.regulations.gov.* You also may view copies of those materials by appointment at the TTB Public Reading Room, 1310 G Street NW, Washington, DC 20005. Please call 202–453–1039, ext. 135 to make an appointment.

FOR FURTHER INFORMATION CONTACT: Christopher M. Thiemann or Kara T. Fontaine, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street NW, Box 12, Washington, DC 20005; telephone 202–453–2265.

SUPPLEMENTARY INFORMATION: On November 26, 2018, the Alcohol and Tobacco Tax and Trade Bureau (TTB) published in the **Federal Register** (83 FR 60562) a notice of proposed rulemaking, Notice No. 176, Modernization of the Labeling and Advertising Regulations for Wine, Distilled Spirits, and Malt Beverages. In that document, TTB proposes to reorganize and recodify its regulations governing the labeling and advertising of wine, distilled spirits, and malt beverages in order to simplify and clarify regulatory standards, incorporate guidance documents and current policy into the regulations, and reduce the regulatory burden on industry members where possible. As originally published, the public comment period for Notice No. 176 was to close on March 26, 2019.

In response to Notice No. 176, as of February 26, 2019, TTB has received eight requests from industry trade associations to extend the comment period for that document. Comments from the Wine Institute (comment 24), the American Distilled Spirits Association (comment 27), the National Association of Manufacturers (comment 56), the Brewers Association (comment 57), the Distilled Spirits Council (comment 58), the Napa Valley Vintners (comment 64), and Wine America (comment 75) request 90-day extensions of the comment period. The comment from the United States Association of Cider Makers (USACM; comment 47) requests a 60-day extension of the comment period.

As reasons to extend the comment period, those requests cite such things as the proposed rule's complex and technical nature, its length, and its publication during the holiday season. These requests are posted within Docket No. TTB–2018–0007 on the *Regulations.gov* website at *https://www.regulations.gov.*

In response to these requests, TTB is extending the comment period for Notice No. 176 for an additional 90 days. TTB will now accept public comments on Notice No. 176 through June 26, 2019.

Signed: March 14, 2019.

John J. Manfreda,

Administrator.

[FR Doc. 2019–05148 Filed 3–18–19; 8:45 am]

BILLING CODE 4810–31–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2018–0722; FRL–9990–85–Region 3]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Commercial Fuel Oil Sulfur Limits for Combustion Units in Philadelphia County

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a state implementation plan (SIP) revision submitted by the Commonwealth of Pennsylvania. The revision updates Philadelphia County's portion of the Pennsylvania SIP, which includes regulations concerning sulfur content in fuel oil. This revision will implement lower sulfur fuel oil provisions in the Philadelphia County that will reduce the amount of sulfur in commercial fuel oils used in combustion units which will aid in reducing sulfates that cause decreased visibility. This revision will strengthen the Pennsylvania SIP. This action is being taken under the Clean Air Act (CAA).

DATES: Written comments must be received on or before April 18, 2019.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R03–OAR–2018–0722 at *http://www.regulations.gov,* or via email to *Spielberger.susan@epa.gov.* For comments submitted at *Regulations.gov,* follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov.* For either manner of submission, EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be confidential business information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Erin Trouba, (215) 814–2023, or by email at *trouba.erin@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

On June 21, 2018, the City of Philadelphia, Air Management Services (AMS) through the Pennsylvania Department of Environmental Protection (PADEP) submitted a formal revision to the Pennsylvania SIP. The SIP revision consists of an amendment to 40 CFR 52.2020(c)(3), the Philadelphia County portion of the SIP [1], in order to implement provisions for lower sulfur levels in commercial fuel oil in Philadelphia County.

Sulfur dioxide (SO_2) emissions contribute to the formation of fine particulate matter ($PM_{2.5}$) and sulfates in the atmosphere, and subsequently to the formation of regional haze. Regional haze is visibility impairing pollution that scatters and absorbs light. The pollutants that cause visibility impairment come from sources and activities that emit fine particles and their precursors, SO_2, $PM_{2.5}$, nitrogen oxides (NO_X), and volatile organic compounds (VOCs).

The June 21, 2018 SIP revision consists of amendments to the Philadelphia County portion of the Pennsylvania SIP regarding provisions for lower sulfur levels in fuel oil in Philadelphia that are more stringent than the state-wide SIP-approved provisions.[2] Since 1972, the Pennsylvania SIP has contained provisions limiting the amount of sulfur allowable in fuel oils in Philadelphia County. In recent years, amendments were made to Title 3 of the Philadelphia Code, the Air Management Code (AMC) and to Air Management Regulation (AMR) III, to lower the maximum allowable level of sulfur in number 2 and lighter fuel oils, to impose more stringent levels on number 4 commercial fuel oils, and to add exemption provisions relating to commercial fuel oil.[3]

[1] The Pennsylvania SIP is set forth at 40 CFR 52.2020(c), with the Philadelphia portion of the Pennsylvania SIP located at 40 CFR 52.2020(c)(3).

[2] The regulations in 25 Pa Code Section 123.22 established statewide maximum allowable sulfur contents for certain fuel oil types beginning July 1, 2016. 79 FR 39330 (July 10, 2014).

[3] On June 5, 2014, amendments were proposed to Section 3–207 of the AMC (relating to commercial fuel oil) to lower the maximum allowable level of sulfur in number 2 and lighter commercial fuel oils

Continued

The Commonwealth of Pennsylvania (Commonwealth or Pennsylvania) has now submitted the finalized amendments to Title 3 of the AMC and to AMR III for inclusion into the Pennsylvania SIP.

II. Summary of SIP Revision and EPA Analysis

Through its June 2018 SIP revision submittal, Pennsylvania seeks to revise its SIP by including amendments to Section 3–207 of the AMC, as well as Sections I, II, and III of AMR III (Control of Emissions of Oxides and Sulfur Compounds). AMR III, Section I(A)(1)(a) lowers the maximum allowable sulfur content in number 2 and lighter fuel oils from 0.2 percent (%) by weight (2000 parts per million (ppm)) to 0.0015% by weight (15 ppm) and lowers the maximum allowable sulfur content in number 4 fuel oils from 0.3% by weight (3000 ppm) to 0.25% by weight (2500 ppm). In this proposed SIP revision, the maximum allowable sulfur content for number 4 and heavier fuel oils is equal to, and the level for number 2 and lighter fuel oils is more stringent than, the state-wide levels set by Pennsylvania.

AMR III, Section I(A)(1)(b) lowers the permissible SO_2 emissions from the combustion of number 4 fuel oils from 0.30 pounds of SO_2 per Million BTU (lbs SO_2/MMBtu) Fuel Gross Heat Input to 0.26 lbs SO_2/MMBtu Fuel Gross Heat Input. AMR III Section I also adds paragraphs (c) through (f) allowing commercial fuel oil stored by the ultimate consumer at its facility prior to the applicable compliance date, July 1, 2015, to be used after that applicable compliance date, if the fuel oil met the applicable maximum allowable sulfur content at the time it was stored, provided that certain conditions are met. One of those conditions are that there are written records of the sulfur content of the fuel oils and that all of the noncompliant fuel oil stored before July 1, 2015 is used before July 1, 2020. The City of Philadelphia Department of Public Health (the Department) reserves the authority to extend the July 1, 2020 deadline in the case of a variety of circumstances included in the regulation. Section II(A) of AMR III lowers the sulfur oxides emission limit to 0.4 ppm for any 5-minute period when measured a ground level. Section III of AMR III adds provisions regarding exemptions for using noncompliant fuel oil beyond July 1, 2020.

The amendments to Section 3-207 of the AMC also adds an emergency conditions provision. If delivery of compliant low sulfur fuel oil is interrupted because of emergency conditions, the Department may authorize the use of an alternative fuel supply, containing the least amount of sulfur available, for a period not to exceed 30 days. Longer periods of time may be authorized by the Department only after review and recommendation are made by the Air Pollution Control Board.

The state-wide Pennsylvania regulations in 25 Pa Code Section 123.22 established maximum allowable sulfur contents for certain fuel oil types including provisions on sampling and recordkeeping requirements in paragraphs (f) and (g) that apply statewide. The September 26, 2018 letter from the City of Philadelphia included in the docket for this SIP revision assures that those sampling and recordkeeping provisions apply to Philadelphia and that they are enforceable by the City of Philadelphia and that AMS has been delegated authority to enforce the Pennsylvania Air Pollution Control Act, and the Pennsylvania air pollution regulations thereunder, in Philadelphia. 35 P.S. Section 4012.

The Commonwealth asserts that lowering the maximum allowable sulfur content in commercial fuel oils combusted or sold in Philadelphia County will aid in reducing SO_2 emissions that are a cause of regional haze. EPA proposes to approve these regulations to strengthen Pennsylvania's SIP.

III. Proposed Action

EPA has determined that Pennsylvania's proposed SIP revisions to 40 CFR 52.2020(c)(3), which incorporate amendments made to Section 3–207 of the AMC and Sections I, II, and III of AMR III, meet the SIP revision requirements of the CAA. EPA is proposing to approve the June 21, 2018 Pennsylvania SIP revision which amends commercial fuel oil sulfur limits for combustion and sale in Philadelphia County. EPA is soliciting public comments on the issues discussed in this document. These comments will be considered before taking final action.

IV. Incorporation by Reference

In this document, EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is proposing to incorporate by reference Philadelphia County's maximum allowable sulfur content in commercial fuel oil regulation. EPA has made, and will continue to make, these materials generally available through *http://www.regulations.gov* and at the EPA Region III Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

V. Statutory and Executive Order Reviews

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

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866.
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or

and impose more stringent levels on number 4 fuel oils. The amendments were signed into law on July 15, 2014. Further amendments to Section 3–207 of the AMC to add exemption provisions relating to commercial fuel oil in a new subsection (c) were proposed on May 21, 2015 and subsequently signed into law, becoming effective on June 18, 2015. The Air Pollution Control Board (APCB) of Philadelphia's Department of Health subsequently adopted amendments to Air Management Regulation III (AMR III) implementing the changes to the AMC. The regulatory amendments addressing the 2014 changes to the AMC were adopted on March 19, 2015 and became effective on June 15, 2015. Re-proposed amendments to AMR III reflecting both the 2014 and 2015 changes to Section 3–207 of the AMC were adopted by the APCB on October 14, 2015 and became effective on November 25, 2015.

safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

• Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

• Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and

• Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule regarding commercial fuel oil sulfur limits for combustion and sale in Philadelphia County does not have tribal implications as specified in Executive Order 13175, because the SIP is not approved to apply in Indian Country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law. Thus, Executive Order 13175 does not apply to this action.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

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

Dated: March 5, 2019.

Cosmo Servidio,

Regional Administrator, Region III.

[FR Doc. 2019–04769 Filed 3–18–19; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2018–0397; FRL–9990–84–Region 3]

Approval and Promulgation of Air Quality Implementation Plans; Maryland; Basic Inspection and Maintenance Program Certification State Implementation Plan for the Baltimore Nonattainment Area Under the 2008 Ozone National Ambient Air Quality Standard

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a state implementation plan (SIP) revision submitted by the State of Maryland. This SIP revision addresses Clean Air Act (CAA) requirements for enactment of a vehicle emissions inspection and maintenance (I/M) program in the Baltimore area of the state—where ambient air quality has been classified by EPA as ''Moderate'' or higher nonattainment of federal ozone national ambient air quality standards (NAAQS) established in 2008 (hereafter referred to as the 2008 ozone NAAQS). The requirements for moderate ozone nonattainment areas under the CAA require the state to demonstrate that they have adopted a basic I/M program (as defined by the CAA), or in the event an I/M program was previously enacted under a prior NAAQS or other CAA requirement, that the existing program meets all applicable federal requirements for a basic I/M program. Maryland's SIP revision that is the subject of this action pertains to CAA requirements for a basic I/M program in the Baltimore area for the 2008 ozone NAAQS. EPA's action to propose approval of this SIP revision is being taken under the applicable requirements of the CAA.

DATES: Written comments must be received on or before April 18, 2019.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R03–OAR–2018–0397 at *http://www.regulations.gov,* or via email to *Spielberger.susan@epa.gov.* For comments submitted at *Regulations.gov*, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. For either manner of submission, EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be confidential business information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Brian Rehn, (215) 814–2176, or by email at *rehn.brian@epa.gov.*

SUPPLEMENTARY INFORMATION: On March 15, 2018, the Maryland Department of Environment (MDE) submitted a revision to its SIP to certify that the existing Maryland vehicle emission inspection program implemented in the Baltimore ozone nonattainment area satisfies the CAA section 182(b)(4) requirements for a vehicle inspection program applicable to the Baltimore 2008 moderate ozone nonattainment area.

I. Background

On March 27, 2008, EPA revised the primary and secondary 8-hour ozone NAAQS to 0.075 parts per million (ppm) to provide increased protection of public health and welfare (73 FR 16436). The 2008 8-hour ozone NAAQS replaced the previous 1997 8-hour ozone NAAQS of 0.080 ppm. Those standards are met when the 3-year average of the annual fourth highest daily maximum 8-hour average ozone concentration of all ambient air monitors is less than or equal to 0.075 ppm.

Promulgation of a revised NAAQS triggers a requirement for EPA to designate all areas of the nation as nonattainment, attainment, or unclassifiable for the NAAQS. For the ozone NAAQS, this also involves classifying any nonattainment areas at the time of designation—per requirements set forth at CAA sections 107(d)(1) and 181(a)(1). Ozone nonattainment areas are classified based on the severity of their ozone levels (as determined based on the area's ''design value,'' which represents the most recent three years of monitored air quality in an area). The CAA-established classifications for ozone nonattainment areas are: Marginal, Moderate, Serious, Severe, and Extreme.[1] Nonattainment areas with a ''lower'' classification have ozone levels that are closer to the standard than areas with a ''higher'' classification.[2] As such, ozone nonattainment areas with lower classification levels have fewer and less stringent mandatory air quality planning and control requirements than those having higher classifications. For each higher ozone nonattainment classification, a state needs to comply with all requirements applicable to the next classification, plus additional emissions controls and more expansive

[1] CAA section 181(a)(1).

[2] *See* 40 CFR 51.1103 for the design value thresholds for each classification for the 2008 ozone NAAQS.

nonattainment new source review offset requirements. In addition to nonattainment requirements, the CAA sets out additional specific requirements for states in an established ozone transport region (OTR), regardless of their ozone attainment designation.[3] These separate OTR requirements mandate that states in the OTR enact enhanced vehicle I/M programs, based on population of metropolitan areas of the state—but not nonattainment designation.[4]

Under the 2008 ozone NAAQS requirements, Maryland is required to implement a basic I/M program for light-duty motor vehicles in the Baltimore moderate ozone nonattainment area (consisting of Anne Arundel, Baltimore, Carroll, Harford, and Howard Counties and the City of Baltimore). However, due to higher ozone nonattainment classifications (under prior ozone NAAQS) and Maryland's inclusion in the OTR, Maryland currently operates an enhanced I/M program (known in Maryland as the Vehicle Emissions Inspection program, or VEIP) in all I/M-subject regions of the state—including the Baltimore ozone nonattainment area. Maryland's enhanced I/M VEIP program tests gasoline-fueled motor vehicles up to 26,000 pounds gross vehicle weight rating (GVWR), with onboard diagnostic (OBD) testing required for model year 1996 and newer passenger vehicles and light-duty trucks and model year 2008 and newer heavy-duty vehicles up to 14,000 pounds GVWR. VEIP also includes a tailpipe idle and a gas cap test, as well as a catalyst check, for model year 1977 and newer heavy-duty vehicles between 8,500 and 26,000 pounds (that are not otherwise subject to OBD testing).

EPA requirements for I/M programs are set forth in EPA's Inspection and Maintenance Program Requirements Rule (or I/M rule), codified in the Code of Federal Regulations, at 40 CFR part 51, subpart S. Requirements for minimum performance of enhanced I/M programs are established in 40 CFR 51.351 and those of a basic I/M programs are set forth in 40 CFR 51.352. EPA's I/M rule delineates more stringent transient tailpipe testing methods and tighter testing limits (or equivalent) and on-road testing for enhanced I/M programs, as well as vehicle evaporative system functional testing (or equivalent).

II. Summary of Maryland's SIP Revision and EPA's Evaluation of the SIP Revision

Maryland's enhanced I/M program under the 1990 CAA was first approved by EPA into the Maryland SIP via a final conditional approval published in the July 31, 1997 **Federal Register** (62 FR 40938). Upon remedy of deficiencies underlying that conditional approval action, EPA converted the conditional approval to a final approval via a final rule published in the October 29, 1999 **Federal Register** (64 FR 58340). Maryland has since made several modifications to its enhanced I/M program to accommodate CAA requirements and changing state interests, to update testing methods to reflect changes in vehicle technology—such as implementation of OBD testing. As part of the OTR, Maryland is required to implement an enhanced I/M program in specific areas, as required by CAA section 184(b)(1).

Maryland submitted a SIP revision on March 15, 2018 to attest and to certify that its existing enhanced I/M program meets requirements established by EPA's I/M rule for a basic I/M program. Maryland also demonstrates, through use of EPA's Motor Vehicle Emission Simulator (MOVES), that the VEIP enhanced I/M program will outperform a basic I/M program in reducing ozone precursor emissions (*i.e.,* nitrogen oxides (NO_X) and volatile organic compounds (VOCs)). Maryland used MOVES version 2014a to model both the current Baltimore area VEIP enhanced I/M program and the EPA basic performance standard[5] that applies to areas newly designated nonattainment under the 2008 ozone NAAQS. The MDE evaluated the benefits of the existing enhanced VEIP program in Baltimore against a hypothetical basic program for a 2012 evaluation date (which corresponds to the date of classification of Baltimore as a Serious area for the 2008 ozone NAAQS, under Subpart 2 of Part D of the CAA) and again with a 2018 evaluation date (which corresponds to the Baltimore 2008 ozone NAAQS attainment deadline, six years after EPA classification under the 2008 ozone NAAQS). The results of this MOVES model comparison between the existing enhanced I/M VEIP program and EPA's basic performance standard are summarized in Table 1. Maryland found that for both the 2012 and 2018 evaluation years, modelled emissions were shown to be higher than the existing VEIP I/M program for both NO_X and VOC, as well as combined NO_X and VOC, for the Baltimore nonattainment area under EPA's basic performance standard.

TABLE 1—COMPARISON BETWEEN MOVES2014a MODELLED EMISSIONS OF MARYLAND'S ENHANCED VEIP I/M PROGRAM VERSUS EPA'S BASIC I/M PERFORMANCE STANDARD FOR THE BALTIMORE NONATTAINMENT AREA, IN TONS PER DAY (TPD)

	VOC (tpd)	NO_X (tpd)	VOC + NO_X (tpd)
2012 Evaluation date scenario:			
Basic I/M Performance Standard for Baltimore Area	39.94	95.97	135.91
Existing VEIP I/M Program for Baltimore Area	38.063	92.977	131.04
Difference between Basic Performance Standard and Existing VEIP Program	1.88	2.99	4.87
2018 Evaluation date scenario:			
Basic I/M Performance Standard for Baltimore Area	25.884	52.214	78.098
Existing VEIP I/M Program for Baltimore Area	25.153	50.738	75.891
Difference between Basic Performance Standard and Existing VEIP Program	0.731	1.476	2.207

[3] CAA section 184 details specific requirements for states (and the District of Columbia) that make up the Northeast OTR. States in an OTR are required to submit Reasonably Available Control Technology (RACT) SIP revisions and mandate a certain level of emissions control for the pollutants that form ozone, even if the areas in the state meet the ozone standards.

[4] CAA section 184(b)(1).

[5] As defined at 40 CFR 51.352(e), entitled ''Basic performance standard for areas designated non-attainment for the 8-hour ozone standard,'' promulgated by EPA on April 7, 2006 (71 FR 17705). This action revised the I/M rule specifically to update I/M program submission and implementation requirements for areas potentially newly subject to I/M requirements as a result of being designated and classified under the 2008 8-hour ozone NAAQS.

Maryland has shown that by previously enacting a high enhanced I/M program in the Baltimore area to meet I/M requirements for the prior 1-hour severe ozone NAAQS (as well as separate enhanced I/M requirements applicable in the OTR), the existing VEIP program satisfies basic I/M requirements applicable because Baltimore was subsequently designated moderate nonattainment under the 2008 8-hour ozone NAAQS. Under the CAA I/M framework, enhanced I/M programs are more stringent than basic programs, and exceed EPA established program requirements for testing, administration, and oversight applicable to basic I/M programs.

III. Proposed Action

EPA is proposing to approve the motor vehicle emissions I/M program certification submitted by Maryland on March 15, 2018 for the Baltimore 2008 ozone nonattainment area to satisfy the applicable CAA requirements to enact a basic I/M program.

EPA is soliciting public comments on the issues discussed in this document or on other relevant matters. These comments will be considered before taking final action. Interested parties may submit written comments to this proposed rulemaking by following the instructions listed in the **ADDRESSES** section of this **Federal Register**.

IV. Statutory and Executive Order Reviews

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

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866.
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this proposed rule to approve Maryland's certification that it meets CAA applicable requirements for a basic I/M program in the Baltimore area does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Nitrogen Dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

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

Dated: March 5, 2019.

Cosmo Servidio,

Regional Administrator, Region III.

[FR Doc. 2019–04771 Filed 3–18–19; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2018–0754; FRL–9990–98–Region 3]

Approval and Promulgation of Air Quality Implementation Plans; District of Columbia; Nonattainment New Source Review Requirements for 2008 8-Hour Ozone Standard

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a revision to the District of Columbia's state implementation plan (SIP). The revision is in response to EPA's February 3, 2017 Findings of Failure to Submit for various requirements relating to the 2008 8-hour ozone national ambient air quality standards (NAAQS). This SIP revision is specific to nonattainment new source review (NNSR) requirements. This action is being taken under the Clean Air Act (CAA).

DATES: Written comments must be received on or before April 18, 2019.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R03–OAR–2018–0754 at *http://www.regulations.gov,* or via email to *maldonado.zelma@epa.gov.* For comments submitted at *Regulations.gov*, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov.* For either manner of submission, EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be confidential business information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Amy Johansen, (215) 814–2156, or by email at *johansen.amy@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

On May 23, 2018, the Department of Energy and Environment (DOEE) submitted on behalf of the District of Columbia (District) a formal SIP revision, requesting EPA's approval of its NNSR Certification for the 2008 8-hour ozone NAAQS. This SIP revision is in response to EPA's final 2008 8-hour ozone NAAQS Findings of Failure to Submit for NNSR requirements. *See* 82 FR 9158 (February 3, 2017). Specifically, the District is certifying that its existing NNSR program, covering the District portion of the Washington, DC–MD–VA Nonattainment Area (Washington Area) for the 2008 8-hour ozone NAAQS, is at least as stringent as the requirements at 40 CFR 51.165, as amended by the final rule titled ''Implementation of the 2008 National Ambient Air Quality Standards for Ozone: State Implementation Plan Requirements'' (SIP Requirements Rule), for ozone and its precursors.[1] [2] *See* 80 FR 12264 (March 6, 2015).

A. 2008 8-Hour Ozone NAAQS

On March 12, 2008, EPA promulgated a revised 8-hour ozone NAAQS of 0.075 parts per million (ppm). *See* 73 FR 16436 (March 27, 2008). Under EPA's regulations at 40 CFR 50.15, the 2008 8-hour ozone NAAQS is attained when the three-year average of the annual fourth-highest daily maximum 8-hour average ambient air quality ozone concentration is less than or equal to 0.075 ppm.

Upon promulgation of a new or revised NAAQS, the CAA requires EPA to designate as nonattainment any area that is violating the NAAQS based on the three most recent years of ambient air quality data at the conclusion of the designation process. The Washington Area was classified as marginal nonattainment for the 2008 8-hour ozone NAAQS on May 21, 2012 (effective July 20, 2012) using 2008–2010 ambient air quality data. *See* 77 FR 30088. On March 6, 2015, EPA issued the final SIP Requirements Rule, which establishes the requirements that state, tribal, and local air quality management agencies must meet as they develop implementation plans for areas where air quality exceeds the 2008 8-hour ozone NAAQS. *See* 80 FR 12264. Areas that were designated as marginal ozone nonattainment areas were required to attain the 2008 8-hour ozone NAAQS no later than July 20, 2015, based on 2012–2014 monitoring data. *See* 40 CFR 51.1103. The Washington Area did not attain the 2008 8-hour ozone NAAQS by July 20, 2015; however, the area did meet the CAA section 181(a)(5) criteria, as interpreted in 40 CFR 51.1107, for a one-year attainment date extension. *See* 81 FR 26697 (May 4, 2016). Therefore, on April 11, 2016, the EPA Administrator signed a final rule extending the Washington Area 8-hour ozone NAAQS attainment date from July 20, 2015 to July 20, 2016. *Id.*[3]

Based on initial nonattainment designations for the 2008 8-hour ozone NAAQS, as well as the March 6, 2015 final SIP Requirements Rule, the District was required to develop a SIP revision addressing certain CAA requirements for the Washington Area, and submit to EPA a NNSR Certification SIP or SIP revision no later than 36 months after the effective date of area designations for the 2008 8-hour ozone NAAQS (*i.e.,* July 20, 2015).[4] *See* 80 FR 12264 (March 6, 2015). EPA is proposing to approve the District's May 23, 2018 NNSR Certification SIP revision. EPA's analysis of how this SIP revision addresses the NNSR requirements for the 2008 8-hour ozone NAAQS is provided in Section II below.

B. 2017 Findings of Failure To Submit SIP for the 2008 8-Hour Ozone NAAQS

Areas designated nonattainment for the ozone NAAQS are subject to the general nonattainment area planning requirements of CAA section 172 and also to the ozone-specific planning requirements of CAA section 182.[5] States in the ozone transport region (OTR), such as the District, are additionally subject to the requirements outlined in CAA section 184.

Ozone nonattainment areas in the lower classification levels have fewer and/or less stringent mandatory air quality planning and control requirements than those in higher classifications. For marginal areas, such as the Washington Area, a state is required to submit a baseline emissions inventory, adopt a SIP requiring emissions statements from stationary sources, and implement a NNSR program for the relevant ozone standard. *See* CAA section 182(a). For each higher ozone nonattainment classification, a state needs to comply with all lower area classification requirements, plus additional emissions controls and more expansive NNSR offset requirements.

The CAA sets out specific requirements for states in the OTR.[6] Upon promulgation of the 2008 8-hour ozone NAAQS, states in the OTR were required to submit a SIP revision addressing reasonable available control technology (RACT). *See* 40 CFR 51.1116. This requirement is the only recurring obligation for an OTR state upon revision of a NAAQS, unless that state also contains some portion of a nonattainment area for the revised NAAQS.[7] In that case, the nonattainment requirements described previously also apply to those portions of that state (the District in this case).

In the March 6, 2015 SIP Requirements Rule, EPA detailed the requirements applicable to ozone nonattainment areas, as well as

[1] The SIP Requirements Rule addresses a range of nonattainment area SIP requirements for the 2008 8-hour ozone NAAQS, including requirements pertaining to attainment demonstrations, reasonable further progress (RFP), reasonably available control technology, reasonably available control measures, major new source review, emission inventories, and the timing of SIP submissions and of compliance with emission control measures in the SIP. The rule also revokes the 1997 ozone NAAQS and establishes anti-backsliding requirements.

[2] On February 16, 2018, the United States Court of Appeals for the District of Columbia Circuit (D.C. Cir. Court or Court) issued an opinion on the EPA's SIP Requirements Rule. *South Coast Air Quality Mgmt. Dist.* v. *EPA,* 882 F.3d 1138, 2018 U.S. App. LEXIS 3636 (D.C. Cir. Feb. 16, 2018). The D.C. Cir. Court found certain provisions from the SIP Requirements Rule to be inconsistent with the statute or unreasonable and vacated those provisions. *Id.* The Court found other parts of the SIP Requirements Rule unrelated to this action reasonable and denied the petition for appeal on those provisions. *Id.*

[3] EPA approved a Determination of Attainment (DOA) for the 2008 8-hour ozone NAAQS for the Washington Area. This action was based on complete, certified, and quality assured ambient air quality monitoring data for the 2013–2015 monitoring period. *See* 82 FR 52651 (November 14, 2017). It should be noted that a DOA does not alleviate the need for the District to certify that their existing SIP approved NNSR program is as stringent as the requirements at 40 CFR 51.165, as NNSR applies in nonattainment areas until an area has been redesignated to attainment.

[4] Neither the District's obligation to submit the NNSR Certification SIP nor the requirements governing that submission were affected by the D.C. Circuit's February 16, 2018 decision on portions of the SIP Requirements Rule in *South Coast Air Quality Mgmt. Dist.* v. *EPA.*

[5] Ozone nonattainment areas are classified based on the severity of their ozone levels (as determined based on the area's ''design value,'' which represents air quality in the area for the most recent three years). The possible classifications for ozone nonattainment areas are Marginal, Moderate, Serious, Severe, and Extreme. *See* CAA section 181(a)(1).

[6] CAA section 184 details specific requirements for a group of states (and the District of Columbia) that make up the OTR. States in the OTR are required to submit RACT SIP revisions and mandate a certain level of emissions control for the pollutants that form ozone, even if the areas in the state meet the ozone standards. While not the subject of this action, the District did submit their OTR RACT SIP to EPA on August 30, 2018. This SIP revision will be acted on in a separate rulemaking action.

[7] NNSR requirements continue to apply in the OTR. *See* CAA section 184(b).

requirements that apply in the OTR, and provided specific deadlines for SIP submittals. *See* 80 FR 12264.

On February 3, 2017, EPA found that 15 states and the District of Columbia failed to submit SIP revisions in a timely manner to satisfy certain requirements for the 2008 8-hour ozone NAAQS that apply to nonattainment areas and/or states in the OTR. *See* 82 FR 9158. As explained in that rulemaking action, consistent with the CAA and EPA regulations, these Findings of Failure to Submit established certain deadlines for the imposition of sanctions, if a state does not submit a timely SIP revision addressing the requirements for which the finding is being made, and for the EPA to promulgate a Federal implementation plan (FIP) to address any outstanding SIP requirements.

EPA found, *inter alia,* that the District failed to submit SIP revisions in a timely manner to satisfy NNSR requirements for the Washington Area.[8] The District submitted its May 23, 2018 SIP revision to address the specific NNSR requirements for the 2008 8-hour ozone NAAQS, located in 40 CFR 51.160–165, as well as its obligations under EPA's February 3, 2017 Findings of Failure to Submit. EPA's analysis of how this SIP revision addresses the NNSR requirements for the 2008 8-hour ozone NAAQS and the Findings of Failure to Submit is provided in Section II of this rulemaking action.

II. Summary of SIP Revision and EPA Analysis

This rulemaking action is specific to the District's NNSR requirements. NNSR is a preconstruction review permit program that applies to new major stationary sources or major modifications at existing sources located in a nonattainment area.[9] The specific NNSR requirements for the 2008 8-hour ozone NAAQS are located in 40 CFR 51.160–165. As set forth in the SIP Requirements Rule, for each nonattainment area, a NNSR plan or plan revision was due no later than 36 months after the July 20, 2012 effective date of area designations for the 2008 8-hour ozone standard (*i.e.,* July 20, 2015).[10] [11]

The minimum SIP requirements for NNSR permitting programs for the 2008 8-hour ozone NAAQS are located in 40 CFR 51.165. *See* 40 CFR 51.1114. These NNSR program requirements include those promulgated in the ''Phase 2 Rule'' implementing the 1997 8-hour ozone NAAQS (75 FR 71018 (November 29, 2005)) and the SIP Requirements Rule implementing the 2008 8-hour ozone NAAQS. Under the Phase 2 Rule, the SIP for each ozone nonattainment area must contain NNSR provisions that: set major source thresholds for oxides of nitrogen (NO_X) and volatile organic compounds (VOC) pursuant to 40 CFR 51.165(a)(1)(iv)(A)(1)(i)–(iv) and (2); classify physical changes as a major source if the change would constitute a major source by itself pursuant to 40 CFR 51.165(a)(1)(iv)(A)(3); consider any significant net emissions increase of NO_X as a significant net emissions increase for ozone pursuant to 40 CFR 51.165(a)(1)(v)(E); consider certain increases of VOC emissions in extreme ozone nonattainment areas as a significant net emissions increase and a major modification for ozone pursuant to 40 CFR 51.165(a)(1)(v)(F); set significant emissions rates for VOC and NO_X as ozone precursors pursuant to 40 CFR 51.165(a)(1)(x)(A)–(C) and (E); contain provisions for emissions reductions credits pursuant to 40 CFR 51.165(a)(3)(ii)(C)(1)–(2); provide that the requirements applicable to VOC also apply to NO_X pursuant to 40 CFR 51.165(a)(8); and set offset ratios for VOC and NO_X pursuant to 40 CFR 51.165(a)(9)(i)–(iii) (renumbered as (a)(9)(ii)–(iv) under the SIP Requirements Rule for the 2008 8-hour ozone NAAQS). Under the SIP Requirements Rule for the 2008 8-hour ozone NAAQS, the SIP for each ozone nonattainment area designated nonattainment for the 2008 8-hour ozone NAAQS and designated nonattainment for the 1997 ozone NAAQS on April 6, 2015, must also contain NNSR provisions that include the anti-backsliding requirements at 40 CFR 51.1105. *See* 40 CFR 51.165(a)(12).

The District's SIP approved NNSR program, established in Chapters 1 (*Air Quality—General Rules*) and 2 (*Air Quality—General and Nonattainment Area Permits*) in Title 20 of the District of Columbia Municipal Regulations (DCMR), apply to the construction and modification of major stationary sources in nonattainment areas. In its May 23, 2018 SIP revision, the District certifies that the versions of 20 DCMR Chapters 1 and 2 approved in the SIP are at least as stringent as the Federal NNSR requirements for the Washington Area. EPA last approved revisions to the District's major NNSR SIP on March 19, 2015. In that action, EPA approved revisions to the District's SIP which made DOEE's NNSR program consistent with Federal requirements. *See* 80 FR 14310.

EPA notes that Title 20 DCMR section 199 and the District's SIP is more stringent than 40 CFR 51.165(a)(1)(iv)(A)(1), because the definition of ''major stationary source'' in 20 DCMR section 199 includes a threshold of 25 tons per year or more of NO_X or VOC in any nonattainment area for ozone, which is equivalent to severe ozone nonattainment area classification. As noted previously, the Washington Area is classified as marginal nonattainment for the 2008 8-hour ozone NAAQS. Therefore, by definition, any major stationary source located in the District is subject to a lower emissions threshold for NO_X and VOC.

Additionally, in its May 23, 2018 SIP revision, the District noted for various NNSR provisions that, ''Should the District attain the NAAQS, because the District has not adopted the Prevention of Significant Deterioration (PSD) portions of New Source Review (NSR), the federal regulations would apply. In this case, because the District is in an Ozone Transport Region (OTR), the federal OTR thresholds would apply.'' In order for a nonattainment area to become attainment and for OTR emissions thresholds to apply, the District would have to submit, and EPA would have to approve a redesignation request and maintenance plan for the applicable ozone NAAQS.[12] *See* CAA Section 184(b). The lack of these provisions in the District's SIP does not impact the requirement to have a fully-approved NNSR program in place, nor does the lack of those requirements impact the approvability of this SIP

[8] The EPA found that the District also failed to submit SIP revisions for the Control Techniques Guidelines (CTG) for volatile organic compound (VOC) RACT (for all 44 CTGs), Non-CTG VOC RACT for Major Sources, and nitrogen oxide (NO_X) RACT for Major Sources. As noted previously, these SIP requirements will be addressed in separate rulemaking actions and will not be discussed here. *See* 82 FR 9158 (February 3, 2017).

[9] *See* CAA sections 172(c)(5), 173 and 182.

[10] With respect to states with nonattainment areas subject to a Findings of Failure to Submit NNSR SIP revisions, such revisions would no longer be required if the area were redesignated to attainment. The CAA's prevention of significant deterioration (PSD) program requirements apply in lieu of NNSR after an area is redesignated to attainment. For areas outside the OTR, NNSR requirements do not apply in areas designated as attainment.

[11] While not the subject of this rulemaking action, as the District noted in their May 23, 2018 submittal, the District does not have a SIP-approved PSD program; however, the District is subject to a Federal Implementation Plan (FIP) which incorporates EPA's PSD permitting requirements from 40 CFR 52.21 into the District's SIP. *See* 40 CFR 52.499. Therefore, should the District submit, and EPA approve, a redesignation request for attainment of an ozone NAAQS for the Washington Area, the federal regulations would apply, and EPA would issue any necessary PSD air quality permits.

[12] Any source in the OTR is considered major for NO_X and VOC if it emits or has the potential to emit at least 100 tons per year or 50 tons per year, respectively. *See* 40 CFR 51.165(a)(iv)(A).

revision, as the federal requirements would apply or the District could undertake a rulemaking action to update their regulations and subsequently their SIP. For purposes of NNSR, the subject of this rulemaking action, the District's approved NNSR program is at least as stringent as the federal requirements.[13]

Neither Title 20 of the DCMR nor the District's approved SIP have the regulatory provisions for an emissions change of VOC in extreme nonattainment areas, specified in 40 CFR 51.165(a)(1)(v)(F) or 40 CFR 51.165(a)(1)(x)(E), because the District's SIP is not required to have this requirement for VOC in extreme nonattainment areas until such a time as the District has an extreme nonattainment area. The District has never been designated as extreme for an ozone NAAQS.[14]

Neither 20 DCMR section 204 nor the District's approved SIP contain a regulatory provision pertaining to establishing emissions reductions credits (ERC), as specified in 40 CFR 51.165(a)(3)(ii)(C)(2)(i) and 40 CFR 51.165(a)(3)(ii)(C)(2)(ii). However, even if the District's regulations do not offer this emissions reductions credit option, their approved SIP is still adequate to meet the standard ERC requirements found in 40 CFR 51.165(a)(3)(ii)(C)(1), where emissions reductions must be surplus, permanent, quantifiable, and federally enforceable, for example. The District has the appropriate ERC requirements approved in their regulations and their SIP, which enables them to implement the program appropriately and in accordance with federal requirements. *See* 20 DCMR Section 204.

Given the D.C. Cir. Court's recent ruling in *South Coast Air Quality Mgmt. Dist.* v. *EPA* vacating the anti-backsliding provisions of the SIP Requirements Rule, the District remains required to comply with the anti-backsliding provisions found in 40 CFR 51.165(a)(12). In the District, neither 20 DCMR Chapters 1 and 2 or the District SIP contain anti-backsliding provisions found in 40 CFR 51.165(a)(12), which applied to NNSR requirements for the 1997 ozone NAAQS. However, EPA finds that 20 DCMR and the District's SIP presently include appropriate thresholds for major stationary sources and emissions offset ratios for the worst air quality designations these nonattainment areas have been designated. For example, in 20 DCMR section 199, a source is considered a ''major stationary source'' if it emits 25 tons per year of NO_X or VOC in any nonattainment area for ozone, except for the 10 ton per year or more of NO_X and VOC in an extreme nonattainment area for ozone.[15] This emissions threshold is equivalent to an area that was designated as severe nonattainment for the ozone NAAQS and is therefore more stringent. Additionally, emissions offset ratios for sources located in the District are more stringent than the requirements of 40 CFR 51.165(a)(9)(i). 20 DCMR section 204.18 and the approved District SIP require sources in ozone nonattainment areas to offset their NO_X and VOC emissions at a ratio of 1.3 to 1 versus the Federal NNSR requirement for a source located in a marginal nonattainment area to offset NO_X and VOC at a less stringent ratio of 1.1 to 1. *See* 40 CFR 51.165(a)(9)(i)(A). Therefore, EPA finds that the District's regulations and approved SIP are more stringent than EPA's NNSR anti-backsliding requirements and their program is adequate to implement NNSR for the 2008 ozone NAAQS.

The versions of 20 DCMR Chapters 1 and 2 that are contained in the current SIP have not changed, with respect to NNSR since the 2015 rulemaking where EPA last approved the District's NNSR provisions. These versions of the rules cover the Washington Area and remain adequate to meet all applicable NNSR requirements for the 2008 8-hour ozone NAAQS found in 40 CFR 51.165, the Phase 2 Rule and the SIP Requirements Rule.

III. Proposed Action

EPA is proposing to approve the District's May 23, 2018 SIP revision addressing the NNSR requirements for the 2008 ozone NAAQS for the Washington Area. EPA has concluded that the District's submission fulfills the 40 CFR 51.1114 revision requirement, meets the requirements of CAA sections 110 and 172 and the minimum SIP requirements of 40 CFR 51.165, as well as its obligations under EPA's February 3, 2017 Findings of Failure to Submit. *See* 82 FR 9158. EPA is soliciting public comments on the issues discussed in this document. These comments will be considered before taking final action.

IV. Statutory and Executive Order Reviews

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

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866.
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this proposed rule, approving the District's 2008 8-hour ozone NAAQS Certification SIP revision for NNSR does not have tribal

[13] *See* CAA sections 172(c)(5), 173, 182 and 40 CFR 51.165.

[14] As the District noted in their May 23, 2018 revision, the District is aware that should they be bumped up to extreme nonattainment or want to be redesignated to attainment for the 2008 8-hour ozone NAAQS, federal requirements would apply, or they could update their regulations and SIP to meet the necessary applicable requirements.

[15] As noted in this rulemaking and in the District's May 23, 2018 SIP revision, the Washington Area has never been classified as Extreme Nonattainment for any ozone NAAQS.

implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

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

Dated: March 7, 2019.

Cosmo Servidio,

Regional Administrator, Region III.

[FR Doc. 2019–05040 Filed 3–18–19; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 721

[EPA–HQ–OPPT–2018–0697; FRL–9986–83]

RIN 2070–AB27

Significant New Use Rules on Certain Chemical Substances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing significant new use rules (SNURs) under the Toxic Substances Control Act (TSCA) for 28 chemical substances which were the subject of premanufacture notices (PMNs). The chemical substances are subject to Orders issued by EPA pursuant to section 5(e) of TSCA. This action would require persons who intend to manufacture (defined by statute to include import) or process any of these 28 chemical substances for an activity that is proposed as a significant new use to notify EPA at least 90 days before commencing that activity. The required notification initiates EPA's evaluation of the intended use within the applicable review period. Persons may not commence manufacture or processing for the significant new use until EPA has conducted a review of the notice, made an appropriate determination on the notice, and has taken such actions as are required with that determination.

DATES: Comments must be received on or before May 3, 2019.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPPT–2018–0697, by one of the following methods:

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

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

FOR FURTHER INFORMATION CONTACT:

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

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

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

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

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

This action may also affect certain entities through pre-existing import certification and export notification rules under TSCA. Chemical importers are subject to the TSCA section 13 (15 U.S.C. 2612) import certification requirements promulgated at 19 CFR 12.118 through 12.127 and 19 CFR 127.28. Chemical importers must certify that the shipment of the chemical substance complies with all applicable rules and orders under TSCA. Importers of chemicals subject to final SNURs must certify their compliance with the SNUR requirements. The EPA policy in support of import certification appears at 40 CFR part 707, subpart B. In addition, any persons who export or intend to export a chemical substance that is the subject of this proposed rule on or after April 18, 2019 are subject to the export notification provisions of TSCA section 12(b) (15 U.S.C. 2611(b)) (see § 721.20), and must comply with the export notification requirements in 40 CFR part 707, subpart D.

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

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

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

II. Background

A. What action is the Agency taking?

EPA is proposing these SNURs under TSCA section 5(a)(2) for chemical substances that were the subject of PMNs and are subject to Orders issued by EPA pursuant to section 5(e) of TSCA. These proposed SNURs would require persons to notify EPA at least 90 days before commencing the manufacture or processing of a chemical substance for any activity proposed as a significant new use. Receipt of such notices would allow EPA to assess risks that may be presented by the intended uses and, if appropriate, to regulate the proposed use before it occurs. Additional rationale and background to these proposed rules are more fully set out in the preamble to EPA's first direct final SNUR published in the **Federal Register** issue of April 24, 1990 (55 FR 17376). Consult that preamble for

further information on the objectives, rationale, and procedures for SNURs and on the basis for significant new use designations, including provisions for developing test data.

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

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

C. Applicability of General Provisions

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

III. Significant New Use Determination

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

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

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

To determine what would constitute a significant new use for the 28 chemical substances that are the subject of these SNURs, EPA considered relevant information about the toxicity of the chemical substances and potential human exposures and environmental releases that may be associated with the conditions of use of the substances, in the context of the four bulleted TSCA section 5(a)(2) factors listed in this unit.

IV. Substances Subject to This Proposed Rule

EPA is proposing significant new use and recordkeeping requirements for 28 chemical substances in 40 CFR part 721, subpart E. In this unit, EPA provides the following information for each chemical substance:

- PMN number.
- Chemical name (generic name, if the specific name is claimed as CBI).
- Chemical Abstracts Service (CAS) Registry number (if assigned for non-confidential chemical identities).
- Basis for the TSCA section 5(e) Order.
- Information identified by EPA that would help characterize the potential health and/or environmental effects of the chemical substance in support of a request by the PMN submitter to modify the Order, or if a manufacturer or processor is considering submitting a SNUN for a significant new use designated by the SNUR. This information may include testing required in a TSCA section 5(e) Order to be conducted by the PMN submitter, as well as testing not required to be conducted but which would also help characterize the potential health and/or environmental effects of the PMN substance. Any recommendation for information identified by EPA was made based on EPA's consideration of available screening-level data, if any, as well as other available information on appropriate testing for the chemical substance. Further, any such testing identified by EPA that includes testing on vertebrates was made after consideration of available toxicity information, computational toxicology and bioinformatics, and high-throughput screening methods and their prediction models. EPA also recognizes that whether testing/further information is needed will depend on the specific exposure and use scenario in the SNUN. EPA encourages all SNUN submitters to contact EPA to discuss any potential future testing. See Unit VII. for more information.
- CFR citation assigned in the regulatory text section of the proposed rule. The regulatory text section of each proposed rule specifies the activities that would be designated as significant new uses. Certain new uses, including exceedance of production volume limits (*i.e.,* limits on manufacture volume) and other uses designated in this proposed rule, may be claimed as CBI. These proposed rules include 28 PMN substances that are subject to Orders issued under TSCA section 5(e)(1)(A). Each Order is based on one or more of the findings in TSCA section 5(a)(3)(B): There is insufficient information to permit a reasoned evaluation; in the absence of sufficient information to permit a reasoned evaluation, the activities associated with the PMN substances may present unreasonable risk to health or the environment; the substance is or will be produced in substantial quantities, and enters or may reasonably be anticipated to enter the environment in substantial quantities or there is or may be significant (substantial) human exposure to the substance. Those Orders require protective measures to limit exposures or otherwise mitigate the potential unreasonable risk. The proposed SNURs would identify as significant new uses any manufacturing, processing, use, distribution in commerce, or disposal that does not conform to the restrictions imposed by the underlying Orders, consistent with TSCA section 5(f)(4).

Where EPA determined that the PMN substance may present an unreasonable risk of injury to human health via inhalation exposure, the underlying TSCA section 5(e) Order usually requires, among other things, that potentially exposed employees wear specified respirators unless actual measurements of the workplace air

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

PMN Numbers: P–15–353 and P–15–433

Chemical Names: Fatty acids, C16 and C18-unsaturated, methyl esters, chlorinated (P–15–353) and chlorinated complex esters (generic) (P–15–433).

CAS Numbers: 1642303–17–0 (P–15–353) and not available (P–15–433).

Effective date of TSCA section 5(e) Order: July 25, 2018.

Basis for TSCA section 5(e) Order: The PMNs state that the generic (non-confidential) use of the PMN substances will be as lubricant additives. Based on submitted analogue data, EPA has identified concern for irritation. Based on the physical/chemical properties of the PMN substances (as described in the New Chemical Program's PBT category at 64 FR 60194; November 4, 1999) and test data on structurally similar substances, the PMN substances are potentially persistent, bioaccumulative, and toxic (PBT) chemicals. EPA estimates that the PMN substances will persist in the environment for more than two months and estimates a bioaccumulation factor of greater than or equal to 1,000. The Order was issued under TSCA section 5(a)(3)(B)(ii)(I) based on a finding that in the absence of sufficient information to permit a reasoned evaluation, the substances may present an unreasonable risk of injury to the environment. The Order was also issued under TSCA sections 5(a)(3)(B)(ii)(II) and 5(e)(1)(A)(ii)(II), based on a finding that the substances are or will be produced in substantial quantities and that the substances either enter or may reasonably be anticipated to enter the environment in substantial quantities, or there is or may be significant (or substantial) human exposure to the substances.

To protect against these risks, the Order requires:

1. Submission to EPA of certain testing before exceeding the three-year time limit specified in the Order; and

2. Use of the PMN substances only for the confidential uses specified in the Order.

The proposed SNUR would designate as a ''significant new use'' the absence of these protective measures.

Potentially useful information: EPA has determined that certain information about the fate and environmental effects of the PMN substances may be potentially useful to characterize the effects of the PMN substances in support of a request by the PMN submitter to modify the Order, or if a manufacturer or processor is considering submitting a SNUN for a significant new use that would be designated by this proposed SNUR. The submitter has agreed not to manufacture the PMN substances beyond three years without performing a specific biodegradation study and an ecotoxicity testing scheme for P–15–353 to determine the rate of loss of the parent PMN substances and formation and identification of degradation products, and to assess their toxicity.

CFR citation: 40 CFR 721.11221 (P–15–353) and 40 CFR 721.11222 (P–15–433).

PMN Number: P–16–186

Chemical Name: Sodium branched chain alkyl hydroxyl and branched chain alkenyl sulfonates (generic).

CAS Number: Not available.

Effective date of TSCA section 5(e) Order: June 26, 2018.

Basis for TSCA section 5(e) Order: The PMN states that the generic (non-confidential) use of the substance will be as a surfactant. EPA identified concern for lung effects based on surfactant activity if respirable particles are inhaled and concern for irritation based on potential surfactant activity to all exposed tissues. EPA also identified concern for developmental toxicity based on data provided for an analogue. The Order was issued under TSCA sections 5(a)(3)(B)(ii)(I) and 5(e)(l)(A)(ii)(I) of TSCA, based on a finding that in the absence of sufficient information to permit a reasoned evaluation, the substance may present an unreasonable risk of injury to human health and the environment. To protect against these risks, the Order requires:

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

2. Refraining from modifying the manufacture, processing or use of the PMN substance in a manner that results in inhalation exposure to vapor, dust, spray, mist or aerosol;

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

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

The proposed SNUR would designate as a ''significant new use'' the absence of these protective measures.

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

CFR citation: 40 CFR 721.11223.

PMN Number: P–16–207

Chemical Name: Spiro tetrafluoroborate (generic).

CAS Number: Not available.

Effective date of TSCA section 5(e) Order: August 6, 2018.

Basis for TSCA section 5(e) Order: The PMN states that the use of the substance will be as an additive for an electrolyte solution. Based on physical/chemical properties and analysis of test data on the PMN substance, EPA has identified concern for developmental neurotoxicity, effects to the bladder, liver, kidney, thymus, stomach, thyroid, and blood. The Order was issued under TSCA sections 5(a)(3)(B)(ii)(I) and 5(e)(I)(A)(ii)(I) based on a finding that in the absence of sufficient information to permit a reasoned evaluation, the substances may present an unreasonable

risk of injury to human health or the environment. To protect against these risks, the Order requires:

1. Submission to EPA of certain toxicity testing before exceeding the aggregate volumes specified in the Order;
2. Use of personal protective equipment where there is potential for dermal exposure;
3. Use of a National Institute of Occupational Safety and Health (NIOSH)-certified respirator with an assigned protection factor (APF) of at least 1000 (where there is potential for inhalation exposure) or compliance with a NCEL of 0.2 mg/m^3 as an 8-hour time-weighted average;
4. Establishment and use of a hazard communication program, including human health precautionary statements on each label and in the SDS;
5. Refraining from domestic manufacture in the United States (*i.e.,* import only); and
6. Use of the PMN substance only for the confidential use specified in the Order.

The proposed SNUR would designate as a ''significant new use'' the absence of these protective measures.

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

CFR citation: 40 CFR 721.11224.

PMN Numbers: P–16–246 and P–16–516

Chemical Names: 2-pyridinecarboxylic acid, 6-(4-chloro-2-fluoro-3-methoxyphenyl)-4,5-difluoro-, phenylmethyl ester (P–16–246) and 2-pyridinecarboxylic acid, 4-amino-6-(4-chloro-2-fluoro-3-methoxyphenyl)-5-fluoro-, phenylmethyl ester, hydrochloride (1:1) (P–16–516).

CAS Numbers: 1391033–38–7 (P–16–246) and not available (P–16–516).

Effective date of TSCA section 5(e) Order: May 21, 2017.

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

1. Submission of certain toxicity testing on the PMN substances prior to exceeding the time limits specified in the Order;
2. Use of personal protective equipment where there is a potential for dermal exposure;
3. Use of a NIOSH-certified respirator with an APF of at least 50 where there is a potential for inhalation exposure;
4. Establishment and use of a hazard communication program, including human health precautionary statements on each label and in the SDS;
5. Use of the PMN substances only for the confidential uses specified in the Order; and
6. No release of the PMN substances to surface waters.

The proposed SNUR would designate as a ''significant new use'' the absence of these protective measures.

Potentially useful information: EPA has determined that certain information about the health effects of the PMN substances may be potentially useful in support of a request by the PMN submitter to modify the Order, or if a manufacturer or processor is considering submitting a SNUN for a significant new use that would be designated by this proposed SNUR. The submitter has agreed not to exceed certain time limits without performing sensitization, mutagenicity, reproductive/developmental, and carcinogenicity effects testing. EPA has also determined that the results of acute aquatic toxicity testing would help characterize the potential environmental effects of the PMN substances. Although the Order does not require these tests, the Order's restrictions on manufacture, processing, distribution in commerce, and disposal will remain in effect until the Order is modified or revoked by EPA based on submission of this or relevant information.

CFR citations: 40 CFR 721.11225 (P–16–246) and 40 CFR 721.11226 (P–16–516).

PMN Numbers: P–16–271 and P–16–450

Chemical Name: 1,2,4-Benzenetricarboxylic acid, 1,2,4-trinonyl ester.

CAS Number: 1817723–10–6.

Effective date of TSCA section 5(e) Orders: June 22, 2018.

Basis for TSCA section 5(e) Orders: The PMNs state that the use of the substance will be used as a plasticizer for wire and cable insulation. EPA identified concerns for the PMN substance as a mild skin irritant as well as for blood, developmental, systemic, maternal, and male reproductive toxicity based on analysis of test data on analogous trimellitate esters. The Order was issued under TSCA sections 5(a)(3)(B)(ii)(I) and 5(e)(l)(A)(ii)(I) of TSCA, based on a finding that in the absence of sufficient information to permit a reasoned evaluation, the substance may present an unreasonable risk of injury to human health and the environment. The Order was also issued under TSCA sections 5(a)(3)(B)(ii)(II) and 5(e)(1)(A)(ii)(II), based on a finding that the substance is or will be produced in substantial quantities and that the substance either enters or may reasonably be anticipated to enter the environment in substantial quantities, or there is or may be significant (or substantial) human exposure to the substance. To protect against these risks, the Orders require:

1. Submit to EPA certain toxicity testing before manufacturing (including import) a total of 1,750,000 kilograms (in each Order) of the PMN substance;
2. Submit to EPA additional toxicity testing which will be determined upon EPA review of the initial toxicity testing results;
3. Use of personal protective equipment to prevent dermal exposure where there is a potential for dermal exposure;
4. Establishment and use of a hazard communication program, including human health precautionary statements on each label and in the SDS and worker training in accordance with the Hazard Communication section of the Orders;
5. Refraining from domestic manufacture in the United States (*i.e.,* import only); and
6. Use of the PMN substance only as plasticizer for wire and cable insulation.

The proposed SNUR would designate as a ''significant new use'' the absence of these protective measures.

Potentially useful information: EPA has determined that certain information about the health and environmental effects of the PMN substance may be potentially useful in support of a request by the PMN submitters to modify the Order, or if a manufacturer or processor is considering submitting a SNUN for a significant new use that would be designated by this proposed SNUR. The submitters have agreed not to exceed certain production volume limits without performing reproductive/

developmental toxicity tests and aquatic sediment toxicity tests.

CFR citation: 40 CFR 721.11227.

PMN Number: P–16–388

Chemical Name: Aliphatic polyamines, polymers with bisphenol A and epichlorohydrin (generic).

CAS Number: Not available.

Effective date of TSCA section 5(e) Order: July 23, 2018.

Basis for TSCA section 5(e) Order: The PMN states that the generic (non-confidential) use of the substance will be as a hardener for epoxy coating. Based on the high percentage of amines and a high pH when in liquid formulation, EPA has identified concern for irritation to the eyes, skin, mucous membranes, and lungs. The Order was issued under TSCA sections 5(a)(3)(B)(i) and 5(e)(1)(A)(i), based on a finding that the available information is insufficient to permit a reasoned evaluation of the human health effects of the PMN substances. To protect against these risks, the Order requires:

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

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

3. No use of the PMN substance in a consumer product; and

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

The proposed SNUR would designate as a ''significant new use'' the absence of these protective measures.

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

CFR citation: 40 CFR 721.11228.

PMN Numbers: P–16–489, P–16–490, and P–16–491

Chemical Name: Epoxy-amine adduct, methanesulfonates (generic).

CAS Number: Not available.

Effective date of TSCA section 5(e) Order: June 11, 2018.

Basis for TSCA section 5(e) Order: The PMNs state that the generic (non-confidential) use of the substances will be open, non-dispersive. Based on physical/chemical properties of the PMN substances, EPA has identified concern for lung toxicity. Ecotoxicity hazards were identified based on structural analysis relationship (''SAR'') predictions for polycationic polymers. The Order was issued under TSCA sections 5(a)(3)(B)(ii)(I) and 5(e)(1)(A)(ii)(I), based on a finding that in the absence of sufficient information to permit a reasoned evaluation, the substances may present an unreasonable risk of injury to human health and the environment. To protect against these risks, the Order requires:

1. Refrain from manufacture, processing, or use of the PMN substances that result in inhalation exposure to vapor, mist, or aerosols;

2. Refrain from manufacture, processing, or use of the PMN substances for consumer use;

3. No release of the PMN substances from manufacturing, processing, or use resulting in surface water concentrations that exceed 208 parts per billion (ppb); and

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

The proposed SNUR would designate as a ''significant new use'' the absence of these protective measures.

Potentially useful information: EPA has determined that certain information about the physical/chemical properties, environmental and health effects of the PMN substances may be potentially useful to characterize the effects of the PMN substances in support of a request by the PMN submitter to modify the Order, or if a manufacturer or processor is considering submitting a SNUN for a significant new use that would be designated by this proposed SNUR. EPA has also determined that the results of certain physical/chemical properties, acute aquatic toxicity testing, and pulmonary effects testing would help characterize the potential health effects of the PMN substances. Although the Order does not require these tests, the Order's restrictions on manufacture, distribution in commerce, and use of these PMN substances will remain in effect until the Order is modified or revoked by EPA based on submission of this or relevant information.

CFR citation: 40 CFR 721.11229.

PMN Number: P–16–509

Chemical Name: Modified ethylene-vinyl alcohol copolymer (generic).

CAS Number: Not available.

Effective date of TSCA section 5(e) Order: July 23, 2018.

Basis for TSCA section 5(e) Order: The PMN states that the generic (non-confidential) use of the PMN substance will be for packaging applications. EPA identified concerns for lung effects if respirable particles are inhaled based on physical/chemical properties. The Order was issued under TSCA sections 5(a)(3)(B)(ii)(I) and 5(e)(1)(A)(ii)(I), based on a finding that in the absence of sufficient information to permit a reasoned evaluation, the substance may present an unreasonable risk of injury to human health and the environment. To protect against these risks, the Order requires refraining from manufacturing (which includes import), processing or using the PMN substance with particle size less than 50 microns.

The proposed SNUR would designate as a ''significant new use'' the absence of this protective measure.

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

CFR citation: 40 CFR 721.11230.

PMN Number: P–16–546

Chemical Name: Cashew, nutshell liq., polymer with acid and halohydrin (generic).

CAS Number: Not available.

Effective date of TSCA section 5(e) Order: July 20, 2018.

Basis for TSCA section 5(e) Order: The PMN states that the use of the substance will be as an adhesion application. Based on the presence of cashew, nutshell liquid in the PMN substance, EPA has identified concerns for sensitization from dermal exposure. The Order was issued under TSCA

sections 5(a)(3)(B)(ii)(I) and 5(e)(1)(A)(ii)(I), based on a finding that in the absence of sufficient information to permit a reasoned evaluation, the substances may present an unreasonable risk of injury to human health and the environment. To protect against these risks, the Order requires:

1. Use of personal protective equipment including chemically impervious gloves and eye goggles where there is a potential for dermal exposure;
2. Use of a NIOSH-certified respirator with an APF of at least 50 to mitigate inhalation exposure and 1000 where the PMN substance has a use involving an application that generates vapor, mist, dust or aerosol;
3. No use of the PMN substance use in a consumer product; and
4. Establishment and use of a hazard communication program, including human health precautionary statements on each label and in the SDS.

The proposed SNUR would designate as a ''significant new use'' the absence of these protective measures.

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

CFR citation: 40 CFR 721.11231.

PMN Number: P–16–589

Chemical Name: Pentaerythritol ester of mixed linear and branched carboxylic acids (generic).

CAS Number: Not available.

Effective date of TSCA section 5(e) Order: October 4, 2018.

Basis for TSCA section 5(e) Order: The PMN states that the generic (non-confidential) use of the substance will be as a synthetic aircraft engine lubricant for contained use industrial lubricant. EPA identified concern for developmental, kidney, liver, and specific organ effects based on test data on the potential branch acid moiety hydrolysis product of the PMN substance. The Order was issued under TSCA sections 5(a)(3)(B)(ii)(I) and 5(e)(l)(A)(ii)(I) of TSCA, based on a finding that in the absence of sufficient information to permit a reasoned evaluation, the substance may present an unreasonable risk of injury to health and the environment. To protect against these risks, the Order requires:

1. Use of personal protective equipment to prevent dermal exposure where there is a potential for dermal exposure;
2. Refraining from modifying the manufacture or processing of the PMN substance in a manner that results in inhalation exposure to the substance;
3. Use of the PMN substance only for the confidential use specified in the Order;
4. Establishment and use of a hazard communication program, including human health precautionary statements on each label and in the SDS; and
5. No release of the PMN substance resulting in exceedance of a surface water concentration of 330 ppb.

The proposed SNUR would designate as a ''significant new use'' the absence of these protective measures.

Potentially useful information. EPA has determined that certain information about the environmental fate and health effects of the PMN substance would be potentially useful in support of a request by the PMN submitter to modify the Order, or if a manufacturer or processor is considering submitting a SNUN for a significant new use that would be designated by this SNUR. EPA has also determined that the results of hydrolysis testing and reproductive/developmental toxicity testing would help characterize the potential health effects of the PMN substance. Although the Order does not require this test, the Order's restrictions on manufacture, processing, distribution in commerce, and use of the PMN substance will remain in effect until the Order is modified or revoked by EPA based on submission of this or relevant information.

CFR citation: 40 CFR 721.11232.

PMN number: P–17–116

Chemical Name: Cashew nut shell liquid, branched polyester-polyether polyol (generic).

CAS Number: Not available.

Effective date of TSCA section 5(e) Order: September 6, 2017.

Basis for TSCA section 5(e) Order: The PMN states that the use of the PMN substance will be as a polyurethane foam to raise concrete slabs. Based on the presence of cashew nut shell liquid, there is concern for sensitization. The Order was issued under TSCA sections 5(a)(3)(B)(ii)(I) and 5(e)(1)(A)(ii)(I), based on a finding that in the absence of sufficient information to permit a reasoned evaluation, the substance may present an unreasonable risk of injury to human health.

To protect against this risk, the Order requires:

1. Submit to EPA certain toxicity testing before manufacturing (including import) a total of 65,000 kilograms of the PMN substance;
2. Provide personal protective equipment to its workers to prevent dermal exposure, including impervious gloves where there is potential for dermal exposure;
3. Refraining from domestic manufacture in the United States (*i.e.,* import only);
4. Manufacture (including import) the PMN substance with no greater than 0.1% weight cashew nut oil;
5. Not use the PMN substance involving an application method that results in the generation of vapor, mist, or aerosol; and
6. Establishment and use of a hazard communication program, including human health precautionary statements on each label and in the SDS.

The proposed SNUR would designate as a ''significant new use'' the absence of these protective measures.

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

CFR citation: 40 CFR 721.11233.

PMN Number: P–17–121

Chemical Name: Methylene diphenyl diisocyanate terminated polyurethane resin (generic).

CAS Number: Not available.

Effective date of TSCA section 5(e) Order: July 17, 2018.

Basis for TSCA section 5(e) Order: The PMN states that the use of the substance will be as a polyurethane used in an adhesive. Based on the isocyanate moiety, EPA has identified concerns for respiratory and dermal sensitization and lung and mucous membrane irritation. The Order was issued under TSCA section 5(a)(3)(B)(ii)(I) and 5(e)(1)(A)(ii)(I) based on a finding that in the absence of sufficient information to permit a reasoned evaluation, the substance may present an unreasonable risk of injury to

human health and the environment. The Order was also issued under TSCA sections 5(a)(3)(B)(ii)(II) and 5(e)(1)(A)(ii)(II), based on a finding that the substance that the substance is or will be produced in substantial quantities and that the substance either enters or may reasonably be anticipated to enter the environment in substantial quantities, or there is or may be significant (or substantial) human exposure to the substance.

To protect against these risks, the Order requires:

1. Submitting to EPA the results of annual medical surveillance monitoring;
2. Use of personal protective equipment to prevent dermal exposure where there is potential for dermal exposure;
3. Use of NIOSH-certified respirators with an APF of at least 50 where there is potential for inhalation exposure;
4. No application methods of the PMN substance that generate a vapor, mist, aerosol, spray, or dust;
5. Refrain from manufacturing, processing, or using the PMN substance for consumer use or for commercial uses that could introduce the substance into a consumer setting; and
6. Establishment and use of a hazard communication program, including human health precautionary statements on each label and in the SDS.

The proposed SNUR would designate as a ''significant new use'' the absence of these protective measures.

Potentially useful information: EPA has determined that certain information about the health effects of the PMN substance may be potentially useful in support of a request by the PMN submitters to modify the Order, or if a manufacturer or processor is considering submitting a SNUN for a significant new use that would be designated by this proposed SNUR. The submitter has agreed to perform annual medical surveillance monitoring as specified in the Order.

CFR citation: 40 CFR 721.11234.

PMN Number: P–17–328

Chemical Name: 2-Furancarboxylic acid, tetrahydro-.

CAS Number: 16874–33–2.

Effective date of TSCA section 5(e) Order: July 26, 2018.

Basis for TSCA section 5(e) Order: The PMN states that the use of the substance will be as a selective polishing agent for chemical mechanical planarization slurry for semiconductor wafer processing. Based on analysis of test data on an analogous chemical, EPA has identified concern for severe eye irritation, blood effects, reproductive effects, and immunotoxicity. Based on physical/chemical properties the substance is also expected to be corrosive, cause skin and eye burns, systemic effects, respiratory and digestive tract irritation with possible burns, pulmonary edema, solvent neurotoxicity, and solvent irritation. The Order was issued under TSCA sections 5(a)(3)(B)(ii)(I) and 5(e)(1)(A)(ii)(I), based on a finding that in the absence of sufficient information to permit a reasoned evaluation, the substance may present an unreasonable risk of injury to human health or the environment. To protect against these risks, the Order requires:

1. Use of personal protective equipment involving impervious gloves and chemical safety goggles where there is potential for dermal exposure;
2. Use of a NIOSH-certified respirator with an APF of at least 50 where there is a potential for inhalation exposure;
3. Refraining from domestic manufacture in the United States (*i.e.,* import only); and
4. Establishment and use of a hazard communication program, including human health precautionary statements on each label and in the SDS.

The proposed SNUR would designate as a ''significant new use'' the absence of these protective measures.

Potentially useful information: EPA has determined that certain information about the health effects of the PMN substance may be potentially useful to characterize the effects of the PMN substance in support of a request by the PMN submitter to modify the Order, or if a manufacturer or processor is considering submitting a SNUN for a significant new use that would be designated by this proposed SNUR. EPA has also determined that the results of reproductive/developmental toxicity testing would help characterize the potential health effects of the PMN substance. Although the Order does not require these tests, the Order's restrictions on manufacture, processing, distribution in commerce, and use of the PMN substance will remain in effect until the Order is modified or revoked by EPA based on submission of this or relevant information.

CFR citation: 40 CFR 721.11235.

PMN Numbers: P–17–373 and P–17–374

Chemical Names: Substituted heteromonocycle, homopolymer, alkyl substituted carbamate, substituted alkyl ester, substituted heteromonocycle, homopolymer, alkyl substituted carbamate, substituted alkyl ester (generic) (P–17–373) and polysiloxanes, di alkyl, substituted alkyl group terminated, alkoxylated, reaction products with alkanoic acid, isocyanate substituted-alkyl carbomonocycle and polyol (generic) (P–17–374).

CAS Numbers: Not available.

Effective date of TSCA section 5(e) Order: June 7, 2018.

Basis for TSCA section 5(e) Order: The PMNs state that the use of P–17–373 will be as an ultraviolet curable resin-overprint varnish and P–17–374 will be as an ultraviolet curable resin. Based on test data for structurally similar acrylates, EPA has identified concerns for eye and skin irritation, sensitization, mutagenicity, oncogenicity, liver and kidney toxicities. EPA also identified concern for developmental toxicity based on analogy to triethanolamines. Based on analogy to acrylates and carbamate esters, P–17–374 could cause environmental effects at concentrations of 110 ppb. The Order was issued under TSCA sections 5(a)(3)(B)(ii)(I) and 5(e)(1)(A)(ii)(I), based on a finding that in the absence of sufficient information to permit a reasoned evaluation, the substances may present an unreasonable risk of injury to health and the environment. To protect against these risks, the Order requires:

1. Use of personal protective equipment to prevent dermal exposure where there is potential for dermal exposure;
2. Use of NIOSH-certified respirators with an APF of at least 50 where there is potential for inhalation exposure;
3. Establishment and use of a hazard communication program, including human health precautionary statements on each label and in the SDS;
4. Refraining from domestic manufacture in the United States (*i.e.,* import only);
5. Import of P–17–374 with no more than 0.1% residual isocyanate;
6. Import of the PMN substances to have a number average molecular weight of greater than or equal to 1000 daltons;
7. Refraining from using the PMN substances other than as an ultraviolet curable resin for coatings; and
8. No release of P–17–374 resulting in surface water concentrations that exceed 110 ppb.

The proposed SNUR would designate as a ''significant new use'' the absence of these protective measures.

Potentially useful information: EPA has determined that certain information about the health effects of the PMN substances may be potentially useful in support of a request by the PMN submitter to modify the Order, or if a manufacturer or processor is considering submitting a SNUN for a significant new use that would be designated by this proposed SNUR. EPA

has also determined that the results of sensitization testing would help characterize the potential health effects of the PMN substances. Although the Order does not require this test, the Order's restrictions on manufacture, processing, distribution in commerce, and use of the PMN substances will remain in effect until the Order is modified or revoked by EPA based on submission of this or relevant information.

CFR citation: 40 CFR 721.11236 (P–17–373) and 40 CFR 721.11239 (P–17–374).

PMN Number: P–18–17

Chemical Name: Substituted carbomonocycle, polymer with substituted heteromonocycle and substituted polyalkylene glycol (generic).

CAS Number: Not available.

Effective date of TSCA section 5(e) Order: June 21, 2018.

Basis for TSCA section 5(e) Order: The PMN states that the use of the substance will be for corrosion protection. Based on the physical/chemical properties of the PMN substance, analysis of test data, and structurally analogous epoxides, EPA identified concerns for mutagenicity, oncogenicity, developmental toxicity, male reproductive effects, liver and kidney toxicity, and dermal and respiratory sensitization. The Order was issued under TSCA section 5(a)(3)(B)(ii)(I), based on a finding that in the absence of sufficient information to permit a reasoned evaluation, the substance may present an unreasonable risk of injury to health and the environment. To protect against these risks, the Order requires:

1. Refraining from domestic manufacture in the United States (*i.e.,* import only);

2. Refrain from using the PMN substance other than for primer coating for corrosion protection;

3. Import the PMN substance with an average molecular weight greater than 1000 daltons with no more than 10% less than 500 daltons and no more than 25% less than 1000 daltons;

4. Use of personal protective equipment to prevent dermal exposure where there is potential for dermal exposure;

5. Use of NIOSH-certified respirators with an APF of at least 1000 where there is potential for inhalation exposure; and

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

The proposed SNUR would designate as a ''significant new use'' the absence of these protective measures.

Potentially useful information: EPA has determined that certain information about the environmental and health effects of the PMN substance may be potentially useful in support of a request by the PMN submitter to modify the Order, or if a manufacturer or processor is considering submitting a SNUN for a significant new use that would be designated by this proposed SNUR. EPA has also determined that the results of water solubility, acute and chronic aquatic toxicity, systemic toxicity, sensitization, and carcinogenicity testing would help characterize the potential health and environmental effects of the PMN substance. Although the Order does not require this information, the Order's restrictions on manufacture, processing, distribution in commerce, and use of the PMN substance will remain in effect until the Order is modified or revoked by EPA based on submission of this or relevant information.

CFR citation: 40 CFR 721.11240.

PMN Number: P–18–40

Chemical Name: Alkanedioic acid, polymers with alkanoic acid-dipentaerythritol reaction products, substituted alkanedioc acid, substituted alkanoic acid, isocyanato-(isocyanatoalkyl)-alkyl substituted carbomonocycle and alkyl substituted alkanediol (generic).

CAS Number: Not available.

Effective date of TSCA section 5(e) Order: July 26, 2018.

Basis for TSCA section 5(e) Order: The PMN states that the use of the substance will be as a binder for ultraviolet curable coating resin. Based on physical/chemical properties, data on the PMN substance, and analysis of test data on an analogous chemical, EPA has identified concerns for developmental toxicity, oncogenicity, liver and kidney toxicity, ocular irritation, sensitization, irritation/corrosion, and eye damage. The Order was issued under TSCA section 5(a)(3)(B)(ii)(I) based on a finding that in the absence of sufficient information to permit a reasoned evaluation, the substance may present an unreasonable risk of injury to health or the environment. To protect against these risks, the Order requires:

1. Refraining from domestic manufacture in the United States (*i.e.,* import only);

2. Only use the PMN substance as a binder for ultraviolet curable coating resins;

3. Import the PMN substance with a number average molecular weight of greater than 1000 daltons;

4. Import the PMN substance with no greater than 20% of the acid moiety;

5. Use of personal protective equipment where there is potential for dermal exposure;

6. Use of a NIOSH-certified respirator with an APF of at least 1000 where there is a potential for inhalation exposure; and

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

The proposed SNUR would designate as a ''significant new use'' the absence of these protective measures.

Potentially useful information: EPA has determined that certain information about the health and environmental effects of the PMN substance may be potentially useful in support of a request by the PMN submitter to modify the Order, or if a manufacturer or processor is considering submitting a SNUN for a significant new use that would be designated by this proposed SNUR. EPA has also determined that the results of water solubility, acute and chronic aquatic toxicity, systemic toxicity, sensitization, and carcinogenicity testing would help characterize the potential health and environmental effects of the PMN substance. Although the Order does not require these tests, the Order's restrictions on manufacture, processing, distribution in commerce, and use of the PMN substance will remain in effect until the Order is modified or revoked by EPA based on submission of this or relevant information.

CFR citation: 40 CFR 721.11241.

PMN Number: P–18–46

Chemical Name: Substituted carbomonocycle, polymer with diisocyanatoalkane, substituted alkylacrylate blocked (generic).

CAS Number: Not available.

Effective date of TSCA section 5(e) Order: June 21, 2018.

Basis for TSCA section 5(e) Order: The PMN states that the use of the substance will be as an ultraviolet curable resin. Based on physical/chemical properties, analysis of test data on the PMN substance, and structurally analogous acrylates, EPA has identified concerns for mutagenicity, oncogenicity, developmental toxicity, liver and kidney toxicity, dermal and respiratory sensitization. The Order was issued under TSCA section 5(a)(3)(B)(ii)(I) based on a finding that in the absence of sufficient information to permit a reasoned evaluation, the substance may

present an unreasonable risk of injury to health and the environment. To protect against these risks, the Order requires:

1. Refraining from domestic manufacture in the United States (*i.e.,* import only);
2. Refrain from using the PMN substance other than as an ultraviolet curable resin;
3. Import the PMN substance with an average molecular weight greater than 1390 daltons with no more than 11% less than 500 daltons and no more than 30% less than 1000 daltons;
4. Use of personal protective equipment to prevent dermal exposure where there is potential for dermal exposure;
5. Use of NIOSH-certified respirators with an APF of at least 1000 where there is potential for inhalation exposure; and
6. Establishment and use of a hazard communication program, including human health precautionary statements on each label and in the SDS.

The proposed SNUR would designate as a ''significant new use'' the absence of these protective measures.

Potentially useful information: EPA has determined that certain information about the health and environmental effects of the PMN substance may be potentially useful in support of a request by the PMN submitter to modify the Order, or if a manufacturer or processor is considering submitting a SNUN for a significant new use that would be designated by this proposed SNUR. EPA has also determined that the results of water solubility, acute and chronic aquatic toxicity, pulmonary toxicity, and sensitization, testing would help characterize the potential health and environmental effects of the PMN substance. Although the Order does not require these tests, the Order's restrictions on manufacture, processing, distribution in commerce, and use of the PMN substance will remain in effect until the Order is modified or revoked by EPA based on submission of this or relevant information.

CFR citation: 40 CFR 721.11242.

PMN Number: P–18–47

Chemical Name: 1,2-Ethanediol, 1,2-dibenzoate.

CAS Number: 94–49–5.

Effective date of TSCA section 5(e) Order: July 31, 2018.

Basis for TSCA section 5(e) Order: The PMN states that the use of the substance will be as a phlegmatizer (stabilizer for compounds susceptible to detonation) for peroxides for use with polyester and vinyl ester resins as well as with curable unsaturated polyester and methacrylic resins. Based on test data on the PMN substance, and analysis of test data on analogous chemicals, EPA has identified concerns for blood, liver, and kidney toxicity, neurotoxicity, immunotoxicity, and reproductive and developmental toxicity, and ecotoxicity. The Order was issued under TSCA sections 5(a)(3)(B)(i) and 5(e)(1)(A)(i), based on a finding that the available information is insufficient to permit a reasoned evaluation of the health effects of the PMN substance. The Order was also issued under TSCA sections 5(a)(3)(B)(ii)(I) and 5(e)(1)(A)(ii)(I), based on a finding that in the absence of sufficient information to permit a reasoned evaluation, the substance may present an unreasonable risk of injury to health and the environment. Additionally, the Order was issued under 5(a)(3)(B)(ii)(II) and 5(e)(1)(A)(ii)(II), based on a finding that the substance is or will be produced in substantial quantities and that the substance either enters or may reasonable be anticipated to enter the environment in substantial quantities, or there is or may be significant (or substantial) human exposure to the substance. To protect against these risks, the Order requires:

1. Use of personal protective equipment where there is potential for dermal exposure;
2. Use of a NIOSH-certified respirator with an APF of at least 25 where there is a potential for inhalation exposure;
3. Establishment and use of a hazard communication program, including human health precautionary statements on each label and in the SDS;
4. Refraining from domestic manufacture in the United States (*i.e.,* import only);
5. Only use the PMN substance as a phlegmatizer (stabilizer for compounds susceptible to detonation) for peroxides for use with polyester and vinyl ester resins as well as with curable unsaturated polyester and methacrylic resins; and
6. No release of the PMN substance resulting in surface water concentrations that exceed 10 ppb.

The proposed SNUR would designate as a ''significant new use'' the absence of these protective measures.

Potentially useful information: EPA has determined that certain information about the health and environmental effects of the PMN substance may be potentially useful in support of a request by the PMN submitter to modify the Order, or if a manufacturer or processor is considering submitting a SNUN for a significant new use that would be designated by this proposed SNUR. EPA has also determined that the results of acute aquatic toxicity and neurotoxicity/developmental neurotoxicity/prenatal development testing would help characterize the potential health and environmental effects of the PMN substance. Although the Order does not require these tests, the Order's restrictions on manufacture, processing, distribution in commerce, and use of the PMN substance will remain in effect until the Order is modified or revoked by EPA based on submission of this or relevant information.

CFR citation: 40 CFR 721.11243.

PMN Number: P–18–51

Chemical Name: Alkenoic acid, reaction products with polymers with isocyanatoalkane and substituted alkanoic acid, substituted monoacrylate alkanoate-blocked (generic).

CAS Number: Not available.

Effective date of TSCA section 5(e) Order: July 30, 2018.

Basis for TSCA section 5(e) Order: The PMN states that the use of the substance will be as a waterborne ultraviolet curable coating resin binder for inkjet, ink, or overprint varnish. Based on physical/chemical properties, available data on the PMN substance and comparison to structurally analogous acrylates, EPA has identified concern for developmental toxicity, sensitization, irritation, corrosion, and eye damage. The Order was issued under TSCA section 5(a)(3)(B)(ii)(I) based on a finding that in the absence of sufficient information to permit a reasoned evaluation, the substances may present an unreasonable risk of injury to human health or the environment. To protect against these risks, the Order requires:

1. Refraining from domestic manufacture in the United States (*i.e.,* import only);
2. Only use the PMN substance as a waterborne ultraviolet curable coating resin binder for inkjet, ink, or overprint varnish;
3. Import the PMN substance with no greater than 24% branched alkyl acid moiety content;
4. Import the PMN substance with no greater than 0.1% isocyanate content;
5. Use of personal protective equipment where there is potential for dermal exposure;
6. Use of a NIOSH-certified respirator with an APF of at least 1000 where there is a potential for inhalation exposure;
7. Establishment and use of a hazard communication program, including human health precautionary statements on each label and in the SDS; and
8. No release of the PMN substance resulting in surface water concentrations that exceed 660 ppb.

The proposed SNUR would designate as a ''significant new use'' the absence of these protective measures.

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

CFR citation: 40 CFR 721.11244.

PMN Numbers: P–18–71 and P–18–79

Chemical Names: Aromatic dicarboxylic acid, compd. with alkane diamines, polymer with alkane diamine and alkane dicarboxylic acid (generic) (P–18–71) and Aromatic dicarboxylic acid, compd. with alkyl diamines, homopolymer (generic) (P–18–79).

CAS Numbers: Not available.

Effective date of TSCA section 5(e) Order: July 6, 2018.

Basis for TSCA section 5(e) Order: The PMNs state that the generic (non-confidential) use of the substances will be as engineering thermoplastic. EPA identified concern for lung effects if the PMN substances are made with a particle size less than 10 microns based on analogy to similar poorly soluble particles. The Order was issued under TSCA sections 5(a)(3)(B)(ii)(I) and 5(e)(l)(A)(ii)(I) of TSCA, based on a finding that in the absence of sufficient information to permit a reasoned evaluation, the substances may present an unreasonable risk of injury to human health and the environment. To protect against this risk, the Order requires manufacture of the PMN substances with a particle size greater than 10 microns. The proposed SNUR would designate as a ''significant new use'' the absence of this protective measure.

Potentially useful information: EPA has determined that certain information about the health effects of the PMN substances would be potentially useful in support of a request by the PMN submitter to modify the Order, or if a manufacturer or processor is considering submitting a SNUN for a significant new use that would be designated by this proposed SNUR. EPA has also determined that the results of pulmonary effects testing would help characterize the potential health effects of the PMN substance. Although the Order does not require this test, the Order's restrictions on manufacture, processing, distribution in commerce, and use of the PMN substances will remain in effect until the Order is modified or revoked by EPA based on submission of this or relevant information.

CFR citations: 40 CFR 721.11245 (P–18–71) and 40 CFR 721.11246 (P–18–79).

PMN Number: P–18–82

Chemical Name: Aspartic acid, tallow modified diester (generic).

CAS Number: Not available.

Effective date of TSCA section 5(e) Order: July 3, 2018.

Basis for TSCA section 5(e) order: The PMN states that the use of the substance will be as an intermediate used in the manufacture of a surface-active agent. Based on test data available for an analogue, EPA has identified concerns for irritation, blood effects, neurotoxicity and surfactant effects in the lungs based on analogue data. Based on SAR analysis of anionic surfactants, EPA predicts toxicity to aquatic organisms may occur at concentrations that exceed 1 ppb. The Order was issued under TSCA sections 5(a)(3)(B)(ii)(I) and 5(e)(1)(A)(ii)(I), based on a finding that in the absence of sufficient information to permit a reasoned evaluation, the substances may present an unreasonable risk of injury to human health and the environment. To protect against these risks, the Order requires:

1. Manufacture, process and use of the PMN substance only as stated in the PMN submission;

2. Use only as an intermediate;

3. Refraining from modifying the manufacture, processing or use in a manner resulting in inhalation exposure;

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

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

6. That PMN residuals will be recycled back into the process as stated in the PMN; and

7. No release of the PMN substance resulting in surface water concentrations that exceed 1 ppb.

The proposed SNUR would designate as a ''significant new use'' the absence of these protective measures.

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

CFR citation: 40 CFR 721.11247.

PMN Number: P–18–130

Chemical Name: Substituted alkanediol, polymer with heteromonocycles, alkenoate, metal complexes (generic).

CAS Number: Not available.

Effective date of TSCA section 5(e) Order: July 26, 2018.

Basis for TSCA section 5(e) Order: The PMN states that the use of the substance will be as an adhesion promoter for industrial application. Based on analysis of analogous acrylates, and physical/chemical properties, EPA has identified concerns for mutagenicity, oncogenicity, developmental toxicity, sensitization, irritation, and liver and kidney toxicity. The Order was issued under TSCA sections 5(a)(3)(B)(ii)(I) and 5(e)(1)(A)(ii)(I), based on a finding that in the absence of sufficient information to permit a reasoned evaluation, the substance may present an unreasonable risk of injury to health and the environment. To protect against these risks, the Order requires:

1. Use of personal protective equipment where there is a potential for dermal exposure;

2. Use of a NIOSH-certified respirator with an APF of at least 50 to mitigate inhalation and 1000 where the PMN substance has a use involving spray application;

3. Refraining from domestic manufacture in the United States (*i.e.,* import only);

4. Use of the PMN substance only as an adhesion promoter for industrial applications; and

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

The proposed SNUR would designate as a ''significant new use'' the absence of these protective measures.

Potentially useful information: EPA has determined that certain information about the health effects of the PMN substance may be potentially useful in support of a request by the PMN submitter to modify the Order, or if a manufacturer or processor is considering submitting a SNUN for a significant new use that would be designated by this proposed SNUR. EPA has also determined that the results of absorption, distribution, metabolism, elimination, genotoxicity, and sensitization testing would help characterize the potential health effects of the PMN substance. Although the Order does not require these tests, the Order's restrictions on manufacture, distribution in commerce, and use of the PMN substance will remain in effect until the Order is modified or revoked by EPA based on submission of this or relevant information.

CFR citation: 40 CFR 721.11248.

V. Rationale and Objectives of the Proposed Rule

A. Rationale

During review of the PMNs submitted for the chemical substances that are subject to these proposed SNURs, EPA concluded that for all 28 chemical substances regulation was warranted under TSCA section 5(e), pending the development of information sufficient to make reasoned evaluations of the health or environmental effects of the chemical substances. The basis for such findings is outlined in Unit IV. Based on these findings, TSCA section 5(e) Orders requiring the use of appropriate exposure controls were negotiated with the PMN submitters. The SNURs would identify as significant new uses any manufacturing, processing, use, distribution in commerce, or disposal that does not conform to the restrictions imposed by the underlying Orders, consistent with TSCA section 5(f)(4).

B. Objectives

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

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

Issuance of a SNUR for a chemical substance does not signify that the chemical substance is listed on the TSCA Chemical Substance Inventory (TSCA Inventory). Guidance on how to determine if a chemical substance is on the TSCA Inventory is available on the internet at *http://www.epa.gov/opptintr/existingchemicals/pubs/tscainventory/index.html.*

VI. Applicability of the Proposed Significant New Use Designation

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

When chemical substances identified in this proposed rule are added to the TSCA Inventory, EPA recognizes that, before the rule is effective, other persons might engage in a use that has been identified as a significant new use. However, TSCA section 5(e) Orders have been issued for all of the chemical substances, and the PMN submitters are prohibited by the TSCA section 5(e) Orders from undertaking activities which would be designated as significant new uses. The identities of 23 of the 28 chemical substances subject to this proposed rule have been claimed as confidential (per §§ 720.25) for a chemical substance covered by this action. Based on this, the Agency believes that it is highly unlikely that any of the significant new uses described in the regulatory text of this proposed rule are ongoing.

Therefore, EPA designates March 19, 2019 as the cutoff date for determining whether the new use is ongoing. The objective of EPA's approach is to ensure that a person cannot defeat a SNUR by initiating a significant new use before the effective date of the final rule. In developing this proposed rule, EPA has recognized that, given EPA's general practice of posting proposed rules on its website a week or more in advance of **Federal Register** publication, this objective could be thwarted even before **Federal Register** publication of the proposed rule.

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

VII. Development and Submission of Information

EPA recognizes that TSCA section 5 does not require developing any particular new information (*e.g.,* generating test data) before submission of a SNUN. There is an exception: Development of test data is required where the chemical substance subject to the SNUR is also subject to a rule, order or consent agreement under TSCA section 4 (see TSCA section 5(b)(1)). In the absence of a TSCA section 4 test rule covering the chemical substance, persons are required only to submit information in their possession or control and to describe any other information known to or reasonably ascertainable by them (see 40 CFR 720.50). However, upon review of PMNs and SNUNs, the Agency has the authority to require appropriate testing. Unit IV. lists potentially useful information identified by EPA that would help characterize the potential health and/or environmental effects of the PMN/SNUN substance for all of the listed SNURs. EPA recognizes that the 2016 Lautenberg Amendments have led to modifications in our approach to testing requirements, including an

increased consideration of alternatives to vertebrate testing. Descriptions of tests/information needs are provided for informational purposes only and EPA strongly encourages persons, before performing any testing, to consult with the Agency pertaining to protocol selection. Pursuant to TSCA section 4(h), which pertains to reduction of testing in vertebrate animals, EPA encourages consultation with the Agency on the use of alternative test methods and strategies (also called New Approach Methodologies, or NAMs), if available, to generate the potentially useful information. EPA encourages dialogue with Agency representatives to help determine how best the submitter can meet both the data needs and the objective of TSCA section 4(h). To access the OCSPP test guidelines referenced in this document electronically, please go to *http://www.epa.gov/ocspp* and select ''Test Methods and Guidelines.'' The Organisation for Economic Co-operation and Development test guidelines are available from the OECD Bookshop at *http://www.oecdbookshop.org* or SourceOECD at *http://www.sourceoecd.org.*

In certain of the TSCA section 5(e) Orders for the chemical substances that would be regulated under this proposed rule, EPA has established production limits in view of the lack of data on the potential health and environmental risks that may be posed by the significant new uses or increased exposure to the chemical substances. These limits cannot be exceeded unless the PMN submitter first submits the results of specified tests that would permit a reasoned evaluation of the potential risks posed by these chemical substances. Listings of the tests specified in the TSCA section 5(e) Orders are included in Unit IV. The proposed SNURs contain the same production limits as the TSCA section 5(e) Orders. Exceeding these production limits is defined as a significant new use. Persons who intend to exceed the production limit must notify the Agency by submitting a SNUN at least 90 days in advance of commencement of non-exempt commercial manufacture or processing and wait until EPA has conducted a review of the notice, made an appropriate determination on the notice, and has taken such actions as are required with that determination.

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

The potentially useful information listed in Unit IV. may not be the only means of addressing the potential risks of the chemical substance. EPA recommends that potential SNUN submitters contact EPA early enough so that they will be able to conduct the appropriate tests. SNUN submitters should be aware that EPA will be better able to evaluate SNUNs which provide detailed information on the following:

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

VIII. SNUN Submissions

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

IX. Economic Analysis

EPA has evaluated the potential costs of establishing SNUN requirements for potential manufacturers and processors of the chemical substances subject to this proposed rule. EPA's complete economic analysis is available in the docket under docket ID number EPA–HQ–OPPT–2018–0650.

X. Statutory and Executive Order Reviews

A. Executive Order 12866

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

B. Paperwork Reduction Act (PRA)

According to PRA (44 U.S.C. 3501 *et seq.*), an agency may not conduct or sponsor, and a person is not required to respond to a collection of information that requires OMB approval under PRA, unless it has been approved by OMB and displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register**, are listed in 40 CFR part 9, and included on the related collection instrument or form, if applicable.

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

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

C. Regulatory Flexibility Act (RFA)

Pursuant to section 605(b) of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), the Agency hereby certifies that promulgation of this proposed SNUR would not have a significant adverse economic impact on a substantial number of small entities. The requirement to submit a SNUN applies to any person (including small or large entities) who intends to engage in any activity described in the final rule as a ''significant new use.'' Because these uses are ''new,'' based on all information currently available to EPA, it appears that no small or large entities presently engage in such activities. A SNUR requires that any person who intends to engage in such activity in the future must first notify EPA by submitting a SNUN. Although some small entities may decide to pursue a

significant new use in the future, EPA cannot presently determine how many, if any, there may be. However, EPA's experience to date is that, in response to the promulgation of SNURs covering over 1,000 chemicals, the Agency receives only a small number of notices per year. For example, the number of SNUNs received was seven in Federal fiscal year (FY) 2013, 13 in FY2014, six in FY2015, 10 in FY2016, and 14 in FY2017, and only a fraction of these were from small businesses. In addition, the Agency currently offers relief to qualifying small businesses by reducing the SNUN submission fee from $16,000 to $2,800. This lower fee reduces the total reporting and recordkeeping of cost of submitting a SNUN to about $10,116 for qualifying small firms. Therefore, the potential economic impacts of complying with this proposed SNUR are not expected to be significant or adversely impact a substantial number of small entities. In a SNUR that published in the **Federal Register** of June 2, 1997 (62 FR 29684) (FRL–5597–1), the Agency presented its general determination that final SNURs are not expected to have a significant economic impact on a substantial number of small entities, which was provided to the Chief Counsel for Advocacy of the Small Business Administration.

D. Unfunded Mandates Reform Act (UMRA)

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

E. Executive Order 13132

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

F. Executive Order 13175

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

G. Executive Order 13045

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

H. Executive Order 13211

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

I. National Technology Transfer and Advancement Act (NTTAA)

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

J. Executive Order 12898

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

List of Subjects in 40 CFR Part 721

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

Dated: February 27, 2019.

Jeffery Morris,

Director, Office of Pollution Prevention and Toxics.

Therefore, it is proposed that 40 CFR chapter I be amended as follows:

PART 721—[AMENDED]

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

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

■ 2. Add § 721.11221 to subpart E to read as follows:

§ 721.11221 Fatty acids, C16 and C18-unsaturated, methyl esters, chlorinated.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substances identified as fatty acids, C16 and C18-unsaturated, methyl esters, chlorinated (PMN P–15–353, CAS No. 1642303–17–0) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(k). It is a significant new use to manufacture the substance beyond three years.

(ii) [Reserved]

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

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

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

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

■ 3. Add § 721.11222 to subpart E to read as follows:

§ 721.11222 Chlorinated complex esters (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance generically identified as chlorinated complex esters (PMN P–15–433) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(k). It is a significant new use to manufacture the substance beyond three years.

(ii) [Reserved]

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

(1) *Recordkeeping.* Recordkeeping requirements as specified in

§ 721.125(a) through (i) are applicable to manufacturers and processors of the substances.

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

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

■ 4. Add § 721.11223 to subpart E to read as follows:

§ 721.11223 Sodium branched chain alkyl hydroxyl and branched chain alkenyl sulfonates (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance generically identified as sodium branched chain alkyl hydroxyl and branched chain alkenyl sulfonates (P–16–186) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (2)(i), (iv), (3), (When determining which persons are reasonable likely to be exposed as required for § 721.63(a)(1), engineering control measures (*e.g.,* enclosure or confinement of the operation, general and local ventilation) or administrative control measures (*e.g.,* workplace policies and procedures) shall be considered and implemented to prevent exposures, where feasible), (6)(v), (vi), (particulate), (b)(concentration set at 1.0%), and (c).

(ii) *Hazard communication.* Requirements as specified in § 721.72 (a) through (e)(concentration set at 1.0%), (f), (g)(1)(i), (ii), (ix), (eye irritation), (2)(i), (v), (eye protection), (4)(i), (ii), (iii), and (5). Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(k). It is a significant new use to manufacture, process or use of the substance in a manner that results in inhalation exposure to vapor, dust, spray, mist, or aerosol.

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

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

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this significant new use rule.

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

■ 5. Add § 721.11224 to subpart E to read as follows:

§ 721.11224 Spiro tetrafluoroborate (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance generically identified as spiro tetrafluoroborate (PMN P–16–207) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (2), (3), (4), (When determining which persons are reasonably likely to be exposed as required for § 721.63 (a)(1) and (4), engineering control measures (*e.g.,* enclosure or confinement of the operation, general and local ventilation) or administrative control measures (*e.g.,* workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible), (a)(5)(respirators must provide a NIOSH assigned protection factor of at least 1000), (a)(6)(particulate), (b)(concentration set at 1.0%), and (c).

(A) As an alternative to the respirator requirements in paragraph (a)(2)(i) of this section, a manufacturer or processor may choose to follow the new chemical exposure limit (NCEL) provision listed in the TSCA section 5(e) Order for this substance. The NCEL is 0.2 mg/m^3 as an 8-hour time-weighted average. Persons who wish to pursue NCELs as an alternative to § 721.63 respirator requirements may request to do so under § 721.30. Persons whose § 721.30 requests to use the NCELs approach are approved by EPA will be required to follow NCELs provisions comparable to those contained in the corresponding TSCA section 5(e) Order.

(B) [Reserved]

(ii) *Hazard communication.* Requirements as specified in § 721.72(a) through (e)(concentration set at 1.0%), (f), (g)(1)(iv), (ix), (2)(i), (ii), (iii), (iv)(use respiratory protection, or maintain workplace airborne concentrations at or below an 8-hour time-weighted average of 0.2 mg/m^3, (v), (g)(5), alternative hazard and warning statements that meet the criteria of the Globally Harmonized System and OSHA Hazard Communication Standard may be used.

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

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

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

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

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

■ 6. Add § 721.11225 to subpart E to read as follows:

§ 721.11225 2-Pyridinecarboxylic acid, 6-(4-chloro-2-fluoro-3-methoxyphenyl)-4,5-difluoro-, phenylmethyl ester.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as 2-pyridinecarboxylic acid, 6-(4-chloro-2-fluoro-3-methoxyphenyl)-4,5-difluoro-, phenylmethyl ester (PMN P–16–246, CAS No. 1391033–38–7) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (2)(i), (iv), (3), (4), (When determining which persons are reasonably likely to be exposed as required for § 721.63(a)(1) and (4), engineering control measures (*e.g.,* enclosure or confinement of the operation, general and local ventilation) or administrative control measures (*e.g.,* workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible), (a)(5)(respirators must provide a National Institute for Occupational Safety and Health assigned protection factor of at least 50), (a)(6)(i), (ii), (v), (vi), (b)(concentration set at 0.1%), and (c).

(ii) *Hazard communication.* Requirements as specified in § 721.72(a) through (e) (concentration set at 0.1%), (f), (g)(1)(i), (ii), (iv), (vi), (vii), (ix), (2)(i), (ii), (iii), (iv), (v), (3)(i), (ii), (4)(iii), and (5). Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(k). It is a

significant new use to manufacture the substance beyond nine months.

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

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

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

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

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

■ 7. Add § 721.11226 to subpart E to read as follows:

§ 721.11226 2-Pyridinecarboxylic acid, 4-amino-6-(4-chloro-2-fluoro-3-methoxyphenyl)-5-fluoro-, phenylmethyl ester, hydrochloride (1:1).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as 2-pyridinecarboxylic acid, 4-amino-6-(4-chloro-2-fluoro-3-methoxyphenyl)-5-fluoro-, phenylmethyl ester, hydrochloride (1:1) (PMN P–16–516) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (2)(i), (iv), (3), (4), (When determining which persons are reasonably likely to be exposed as required for § 721.63(a)(1) and (4), engineering control measures (*e.g.,* enclosure or confinement of the operation, general and local ventilation) or administrative control measures (*e.g.,* workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible), (a)(5)(respirators must provide a National Institute for Occupational Safety and Health assigned protection factor of at least 50), (6)(i), (ii), (v), (vi), (b)(concentration set at 0.1%), and (c).

(ii) *Hazard communication.* Requirements as specified in § 721.72(a) through (e)(concentration set 0.1%), (f), (g)(1)(i), (ii), (iv), (vi), (vii), (ix), (2)(i), (ii), (iii), (iv), (v), (3)(i), (ii), (4)(iii), and (5). Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(k). It is a significant new use to manufacture the substance beyond nine months.

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

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

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

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

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

■ 8. Add § 721.11227 to subpart E to read as follows:

§ 721.11227 1,2,4-Benzenetricarboxylic acid, 1,2,4-trinonyl ester.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as 1,2,4-benzenetricarboxylic acid, 1,2,4-trinonyl ester (P–16–271 and P–16–450, CAS No. 1817723–10–6) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of this section do not apply to quantities of the substance after they have been incorporated into a polymer matrix.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (2), (3), (When determining which persons are reasonable likely to be exposed as required for § 721.63(a)(1), engineering control measures (*e.g.* enclosure or confinement of the operation, general and local ventilation) or administrative control measures (*e.g.* workplace policies and procedures) shall be considered and implemented to prevent exposures, where feasible), (a)(6)(particulate), (b)(concentration set at 1.0%), and (c).

(ii) *Hazard communication.* Requirements as specified in § 721.72(a) through (e)(concentration set at 1.0%), (f), (g)(1)(i), (iv), (vi), (ix), (2)(i), (v), (4)(i), (ii), (iii), and (v). Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(f) and (p)(1,750,000 kilograms). It is a significant new use to use the substance other than as a plasticizer in wire and cable insulation.

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

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

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

■ 9. Add § 721.11228 to subpart E to read as follows:

§ 721.11228 Aliphatic polyamines, polymers with bisphenol A and epichlorohydrin (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance generically identified as aliphatic polyamines, polymers with bisphenol A and epichlorohydrin (PMN P–16–388) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of this section do not apply to quantities of the substance after they have been completely reacted (cured).

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (2)(i), (iii), (3), (When determining which persons are reasonably likely to be exposed as required for § 721.63(a)(1) engineering control measures (*e.g.,* enclosure or confinement of the operation, general and local ventilation) or administrative control measures (*e.g.,* workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible), (a)(6)(v), (vi), (particulate), (b)(concentration set at 1.0%) and (c).

(ii) *Hazard communication.* Requirements as specified in § 721.72(a) through (e)(concentration set at 1.0%), (f), (g)(1)(i), (ii), (iii), (g)(2)(i), (use gloves and eye protection), and (g)(5), alternative hazard and warning statements that meet the criteria of the Globally Harmonized System and OSHA Hazard Communication Standard may be used.

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

(b) *Specific requirements.* The provisions of subpart A of this part

apply to this section except as modified by this paragraph (b).

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

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

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

■ 10. Add § 721.11229 to subpart E to read as follows:

§ 721.11229 Epoxy-amine adduct, methanesulfonates (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substances generically identified as epoxy-amine adduct, methanesulfonates (PMN P–16–489, PMN P–16–490, PMN P–16–491), are subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of this section do not apply to quantities of the substance after they have been completely reacted (cured).

(2) The significant new uses are:

(i) *Hazard communication.* Requirements as specified in § 721.72(a) through (e)(concentration set at 1.0%), (f), (g)(1)(ii), (2)(ii), (3)(i), (ii), (5), alternative hazard and warning statement that meet the criteria of the Globally Harmonized System and OSHA Hazard Communication Standard may be used.

(ii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(o). It is a significant new use to manufacture, process, or use the substances resulting in inhalation exposure to vapor, mist, or aerosols.

(iii) *Release to water.* Requirements as specified in § 721.90(a)(4), (b)(4), and (c)(4) where N = 208 ppb.

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

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

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

■ 11. Add § 721.11230 to subpart E to read as follows:

§ 721.11230 Modified ethylene-vinyl alcohol copolymer (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (2) The chemical substance generically identified as modified ethylene-vinyl alcohol copolymer (P–16–509) is subject to reporting under this section for the significant new use described in paragraph (a)(2) of this section. The requirements of this section do not apply to quantities of the substance after they have been reacted (cured).

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* It is a significant new use to manufacture, process, or use the substance with particle size less than 50 microns.

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

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

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

■ 12. Add § 721.11231 to subpart E to read as follows:

§ 721.11231 Cashew, nutshell liq., polymer with acid and halohydrin (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance generically identified as cashew, nutshell liq., polymer with acid and halohydrin (PMN P–16–546) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (2)(i), (iv), (3), (4), (When determining which persons are reasonably likely to be exposed as required for § 721.63 (a)(1), (4) engineering control measures (*e.g.,* enclosure or confinement of the operation, general and local ventilation) or administrative control measures (*e.g.,* workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible), (a)(5)(respirators must provide a National Institute for Occupational Safety and Health assigned protection factor (APF) of at least 50, or an APF of 1000 where the PMN substance has a use involving an application method that generates vapor, mist or aerosol), (6)(v), (vi), (particulate), and (c).

(ii) *Hazard communication.* Requirements as specified in § 721.72(a) through (d), (f), (g)(1)(skin sensitization),(respiratory sensitization), (g)(2)(i), (ii), (iii), (iv), (v), (5), alternative hazard and warning statements that meet the criteria of the Globally Harmonized System and OSHA Hazard Communication Standard may be used.

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

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

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

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

■ 13. Add § 721.11232 to subpart E to read as follows:

§ 721.11232 Pentaerythritol ester of mixed linear and branched carboxylic acids (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance generically identified as pentaerythritol ester of mixed linear and branched carboxylic acids (P–16–589) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (3), (When determining which persons are reasonable likely to be exposed as required for § 721.63(a)(1), engineering control measures (*e.g.,* enclosure or confinement of the operation, general and local ventilation) or administrative control measures (*e.g.,* workplace policies and procedures) shall be considered and implemented to prevent exposures, where feasible), (a)(6)(particulate), (b)(concentration set at 1.0%), and (c).

(ii) *Hazard communication.* Requirements as specified in § 721.72(a) through (e)(concentration set at 1.0%), (f), (g)(1)(iv), (v), (vi), (ix), (2)(i), (ii), (iii), (v), (4)(minimize release to water), and (g)(5). Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(k). It is a

significant new use to manufacture or process this substance in any manner that results in inhalation exposure.

(iv) *Release to water.* Requirements as specified in § 721.90(a)(4) and (b)(4), where N = 330 ppb.

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

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

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this significant new use rule.

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

■ 14. Add § 721.11233 to subpart E to read as follows:

§ 721.11233 Cashew nut shell liquid, branched polyester-polyether polyol (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance generically identified as cashew nut shell liquid, branched polyester-polyether polyol (PMN P–17–116) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (2)(i), (3), (When determining which persons are reasonably likely to be exposed as required for § 721.63(a)(1), engineering control measures (*e.g.,* enclosure or confinement of the operation, general and local ventilation) or administrative control measures (*e.g.,* workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible), (6)(particulate), (b)(concentration set at 0.1%) and (c).

(ii) *Hazard communication:* Requirements as specified in § 721.72(a) through (e) (concentration set at 0.1%), (f), (g)(1)(sensitization), (g)(2)(i), (v), and (g)(5). Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(f), (p)(65,000 kg), and (y)(1). It is a significant new use to manufacture the PMN substance with greater than 0.1% weight residual cashew nut oil.

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

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (i).

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

■ 15. Add § 721.11234 to subpart E to read as follows:

§ 721.11234 Methylene diphenyl diisocyanate terminated polyurethane resin (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance generically identified as methylene diphenyl diisocyanate terminated polyurethane resin (PMN P–17–121) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (2)(i), (iii), (iv), (3), (4), (When determining which persons are reasonably likely to be exposed as required for § 721.63(a)(1) and (a)(4), engineering control measures (*e.g.,* enclosure or confinement of the operation, general and local ventilation) or administrative control measures (*e.g.,* workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible), (a)(5)(respirators must provide NIOSH assigned protection factor of at least 50), (a)(6)(v), (vi), (particulate), (b)(concentration set at 1.0%) and (c).

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

(iii) *Industrial, commercial, and consumer activities.* It is a significant new use to manufacture, process, or use the substance for consumer use or for commercial uses that could introduce the substance into a consumer setting. It is a significant new use to manufacture the substance without conducting medical surveillance as specified in the Order. It is a significant new use to use the substance in a spray application that results in inhalation exposure to a vapor, dust, mist, spray, or aerosol.

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

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

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

■ 16. Add § 721.11235 to subpart E to read as follows:

§ 721.11235 2-Furancarboxylic acid, tetrahydro-.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as 2-furancarboxylic acid, tetrahydro- (PMN P–17–328, CAS No. 16874–33–2) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (2)(i), (iii), (iv), (3), (4), (When determining which persons are reasonably likely to be exposed as required for § 721.63(a)(1) and (4), engineering control measures (*e.g.,* enclosure or confinement of the operation, general and local ventilation) or administrative control measures (*e.g.,* workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible), (a)(5)(respirators must provide a National Institute for Occupational Safety and Health assigned protection factor of at least 50), (a)(6)(v), (vi), (particulate), (b)(concentration set at 1.0%), and (c).

(ii) *Hazard communication.* Requirements as specified in § 721.72(a) through (e)(concentration set at 1.0%), (f), (g)(1)(vi), (severe eye irritation), (blood effects), (immunotoxicity), (g)(2)(i), (ii), (iii), (v), (eye protection), (g)(5). Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System and OSHA Hazard Communication Standard may be used.

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

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

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

(2) *Limitations or revocation of certain notification requirements.* The

provisions of § 721.185 apply to this section.

■ 17. Add § 721.11236 to subpart E to read as follows:

§ 721.11236 Substituted heteromonocycle, homopolymer, alkyl substituted carbamate, substituted alkyl ester, substituted heteromonocycle, homopolymer, alkyl substituted carbamate, substituted alkyl ester (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance generically identified as substituted heteromonocycle, homopolymer, alkyl substituted carbamate, substituted alkyl ester, substituted heteromonocycle, homopolymer, alkyl substituted carbamate, substituted alkyl ester (PMN P–17–373) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of the Order do not apply to quantities of the substance after they have been completely reacted (cured).

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (2)(i), (3), (4), (When determining which persons are reasonably likely to be exposed as required for § 721.63(a)(1) and (a)(4), engineering control measures (*e.g.,* enclosure or confinement of the operation, general and local ventilation) or administrative control measures (*e.g.,* workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible), (a)(5)(respirators must provide a National Institute for Occupational Safety and Health assigned protection factor of at least 50), (a)(6)(v), (vi), (particulate), (b)(concentration set at 0.1%) and (c).

(ii) *Hazard communication.* Requirements as specified in § 721.72(a) through (e)(concentration set at 0.1%), (f), (g)(1)(i), (vii), (ix), (sensitization), (systemic effects), (a)(2)(i), (ii), (iii), (v), (a)(5), alternative hazard and warning statements that meet the criteria of the Globally Harmonized System and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(f). It is a significant new use to manufacture the substance unless the number average molecular weight is greater than or equal to 1000 daltons. It is a significant new use to use the substance other than as an ultraviolet curable coating resin.

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

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

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

■ 18. Add § 721.11237 to subpart E to read as follows:

§ 721.11237 Polysiloxanes, di alkyl, substituted alkyl group terminated, alkoxylated, reaction products with alkanoic acid, isocyanate substituted-alkyl carbomonocycle and polyol (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance generically identified as polysiloxanes, di alkyl, substituted alkyl group terminated, alkoxylated, reaction products with alkanoic acid, isocyanate substituted-alkyl carbomonocycle and polyol (PMN P–17–374) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of the Order do not apply to quantities of the PMN substance after they have been completely reacted (cured).

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (2)(i), (3), (4), (When determining which persons are reasonably likely to be exposed as required for § 721.63(a)(1) and (a)(4), engineering control measures (*e.g.,* enclosure or confinement of the operation, general and local ventilation) or administrative control measures (*e.g.,* workplace policies and procedures.) shall be considered and implemented to prevent exposure, where feasible), (a)(5)(respirators must provide a NIOSH assigned protection factor of at least 50), (a)(6)(v), (vi), (particulate), (b)(concentration set at 0.1%) and (c).

(ii) *Hazard communication.* Requirements as specified in § 721.72(a) through (e)(concentration set at 0.1%), (f), (g)(1)(i), (vii), (ix), (sensitization), (systemic effects), (g)(2)(i), (ii), (iii), (v), (g)(5). Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(f). It is a significant new use to import the substance with more than 0.1% residual isocyanate. It is a significant new use to import the substance at a number average molecular weight less than 1000 daltons. It is a significant new use to use the substance other than as an ultraviolet curable coating resin.

(iv) *Release to water.* Requirements as specified in § 721.90(a)(4), (b)(4), and (c)(4) where N = 110.

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

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

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

■ 19. Add § 721.11238 to subpart E to read as follows:

§ 721.11238 Substituted carbomonocycle, polymer with substituted heteromonocycle and substituted polyalkylene glycol (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance generically identified as substituted carbomonocycle, polymer with substituted heteromonocycle and substituted polyalkylene glycol (PMN P–18–17) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of this section do not apply to quantities of the substance after they have been reacted (cured).

(2) The significant new uses are:

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

(ii) *Hazard communication.* Requirements as specified in § 721.72(a) through (e)(concentration set at 0.1%), (f), (g)(1)(i), (ii), (iii), (iv), (v), (vi), (vii), (ix), (irritation to eyes, lungs, and mucus membranes), (g)(2)(i), (ii), (iii), (iv), (v), (avoid eye contact), (g)(5), alternative hazard and warning statements that meet the criteria of the Globally Harmonized System and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(f), It is a significant new use to import the substance if the average molecular weight is less than or equal to 1000 daltons, more than 10% is less than 500 daltons, or more than 25% is less than 1000 daltons. It is a significant new use to use the substance other than for primer coating for corrosion protection.

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

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

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

■ 20. Add § 721.11239 to subpart E to read as follows:

§ 721.11239 Alkanedioic acid, polymers with alkanoic acid-dipentaerythritol reaction products, substituted alkanedioc acid, substituted alkanoic acid, isocyanato-(isocyanatoalkyl)-alkyl substituted carbomonocycle and alkyl substituted alkanediol (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance generically identified as alkanedioic acid, polymers with alkanoic acid-dipentaerythritol reaction products, substituted alkanedioc acid, substituted alkanoic acid, isocyanato-(isocyanatoalkyl)-alkyl substituted carbomonocycle and alkyl substituted alkanediol (PMN P–18–40) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of this section do not apply to quantities of the substance after they have been reacted (cured).

(2) The significant new uses are:

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

(ii) *Hazard communication.* Requirements as specified in § 721.72(a) through (d), (f), (g)(1)(i), (vii), (ix), (irritation to eyes, lungs, and mucous membranes), (dermal sensitization), (respiratory sensitization), (g)(2)(i), (ii), (iii), (iv), (v), (g)(5). Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(f). It is a significant new use to import the substance if the number average molecular weight is less than or equal to 1000 daltons or greater than 20% of the acid moiety. It is a significant new use to use the substance other than as a binder for ultraviolet curable coating resins.

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

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

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

■ 21. Add § 721.11240 to subpart E to read as follows:

§ 721.11240 Substituted carbomonocycle, polymer with diisocyanatoalkane, substituted alkylacrylate blocked (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance generically identified as substituted carbomonocycle, polymer with diisocyanatoalkane, substituted alkylacrylate blocked (PMN P–18–46) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

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

(ii) *Hazard communication.* Requirements as specified in § 721.72(a) through (e)(concentration set at 0.1%), (f), (g)(1)(i), (iv), (v), (vii), (ix), (irritation to eyes, lungs, and mucus membranes), (dermal and respiratory sensitization), (g)(2)(i), (ii), (iii), (iv), (v), (avoid eye contact), (g)(5). Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(f). It is a significant new use to import the substance if the average molecular weight is less than or equal to 1390 daltons, more than 11% is less than 500 daltons, or more than 30% is less than 1000 daltons. It is a significant new use to use the substance other than as an ultraviolet curable resin.

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

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

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

■ 22. Add § 721.11241 to subpart E to read as follows:

§ 721.11241 1,2-Ethanediol, 1,2-dibenzoate.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as 1,2-ethanediol, 1,2-dibenzoate (PMN P–18–47, CAS No. 94–49–5) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of this section do not apply to quantities of the substance after they have been completely entrained in cured resin.

(2) The significant new uses are:

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

(a)(5)(respirators must provide a National Institute for Occupational Safety and Health assigned protection factor of at least 25), (a)(6), (v), (vi), (particulate), (b)(concentration set at 1.0%), and (c).

(ii) *Hazard communication.* Requirements as specified in § 721.72(a) through (e)(concentration set at 1.0%), (f), (g)(1)(iii), (iv), (vi), (viii), (ix), (blood effects), (g)(2)(i), (ii), (iv), (v), (3)(i), (ii), (g)(5). Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(f). It is a significant new use to use the substance other than as a phlegmatizer (stabilizer for compounds susceptible to detonation) for peroxides for use with polyester and vinyl ester resins as well as with curable unsaturated polyester and methacrylic resins.

(iv) *Release to water.* Requirements as specified in § 721.90(a)(4), (b)(4), and (c)(4) where N = 10.

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

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

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

■ 23. Add § 721.11242 to subpart E to read as follows:

§ 721.11242 Alkenoic acid, reaction products with polymers with isocyanatoalkane and substituted alkanoic acid, substituted monoacrylate alkanoate-blocked (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance generically identified as alkenoic acid, reaction products with polymers with isocyanatoalkane and substituted alkanoic acid, substituted monoacrylate alkanoate-blocked (PMN P–18–51) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of this section do not apply to quantities of the substance after they have been reacted (cured).

(2) The significant new uses are:

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

(ii) *Hazard communication.* Requirements as specified in § 721.72(a) through (d), (f), (g)(1)(i), (ix), (irritation to eyes, lungs, and mucous membranes), (dermal sensitization), (respiratory sensitization), (g)(2)(i), (ii), (iii), (iv), (v), (avoid eye contact), (g)(5). Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(f). It is a significant new use to use the substance other than as a waterborne ultraviolet curable coating resin binder for inkjet, ink, or overprint varnish. It is a significant new use to import the substance with greater than 24% of the branched alkyl acid moiety content. It is a significant new use to import the substance with greater than 0.1% isocyanate content.

(iv) *Release to water.* Requirements as specified in § 721.90(a)(4), (b)(4), and (c)(4) where N = 660.

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

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

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

■ 24. Add § 721.11243 to subpart E to read as follows:

§ 721.11243 Aromatic dicarboxylic acid, compd. with alkane diamines, polymer with alkane diamine and alkane dicarboxylic acid (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance generically identified as aromatic dicarboxylic acid, compd. with alkane diamines, polymer with alkane diamine and alkane dicarboxylic acid (P–18–71) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* It is a significant new use to manufacture the substance with particle size less than 10 microns.

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

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

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this significant new use rule.

■ 25. Add § 721.11244 to subpart E to read as follows:

§ 721.11244 Aromatic dicarboxylic acid, compd. with alkyl diamines, homopolymer (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance generically identified as aromatic dicarboxylic acid, compd. with alkyl diamines, homopolymer (P–18–79) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new use is:

(i) *Industrial, commercial, and consumer activities.* It is a significant new use to manufacture the substance with particle size less than 10 microns.

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

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

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this significant new use rule.

■ 26. Add § 721.11245 to subpart E to read as follows:

§ 721.11245 Aspartic acid, tallow modified diester (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance generically identified as aspartic acid, tallow modified diester (PMN P–18–82) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in

§ 721.63(a)(1), (2)(i), (iii), (3), (When determining which persons are reasonably likely to be exposed as required for § 721.63(a)(1), engineering control measures (*e.g.,* enclosure or confinement of the operation, general and local ventilation) or administrative control measures (*e.g.,* workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible), (b)(concentration set at 1.0%), and (c).

(ii) *Hazard communication.* Requirements as specified in § 721.72(a) through (e)(concentration set at 1.0%), (f), (g)(1)(i), (ii), (iv), (2)(i), (ii), (v), (3)(i), (ii), (4)(iii)(above concentration of 1 part per billion (ppb), (g)(5). Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(g). It is a significant new use to manufacture, process, or use the substance that results in inhalation exposure. It is a significant new use to manufacture, process and use the substance other than as stated in the PMN.

(iv) *Disposal.* Residuals must be recycled back into the process as stated in the PMN.

(v) *Release to water.* Requirements as specified in § 721.90(a)(4), (b)(4), (c)(4) where N = 1.

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

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

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

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

■ 27. Add § 721.11246 to subpart E to read as follows:

§ 721.11246 Substituted alkanediol, polymer with heteromonocycles, alkenoate, metal complexes (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance generically identified as substituted alkanediol, polymer with heteromonocycles, alkenoate, metal complexes (PMN P–18–130) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of this section do not apply to quantities of the substance after they have been reacted (cured).

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (2)(i), (iii), (3), (4), (When determining which persons are reasonably likely to be exposed as required for § 721.63(a)(1), (4) engineering control measures (*e.g.,* enclosure or confinement of the operation, general and local ventilation) or administrative control measures (*e.g.,* workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible), (a)(5)(respirators must provide a National Institute for Occupational Safety and Health assigned protection factor (APF) of at least 50, or if spray applied an APF of 1000), (a)(6)(v), (vi), (particulate), and (c).

(ii) *Hazard communication.* Requirements as specified in § 721.72(a) through (d), (f), (g)(1)(i), (sensitization), (mutagenicity), (g)(2)(i), (ii), (iii), (iv), (v), (g)(5). Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(f). It is a significant new use to use the substance other than as an adhesion promoter for industrial applications.

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

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

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

[FR Doc. 2019–04457 Filed 3–18–19; 8:45 am]

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Notices

Federal Register

Vol. 84, No. 53

Tuesday, March 19, 2019

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Doc. No. AMS–SC–19–0010; SC19–996–1]

Peanut Standards Board; Request for Nominations

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice; request for nominations.

SUMMARY: The Farm Security and Rural Investment Act of 2002 (2002 Farm Bill) requires the Secretary of Agriculture (Secretary) to establish a Peanut Standards Board (Board) for the purpose of advising the Secretary on quality and handling standards for domestically produced and imported peanuts. The U.S. Department of Agriculture (USDA) is seeking nominations for individuals to be considered for selection as Board members for a term of office ending June 30, 2022.

DATES: Written nominations must be received on or before May 3, 2019.

ADDRESSES: Nominations should be sent to Steven W. Kauffman of the Southeast Marketing Field Office, Marketing Order and Agreement Division, Specialty Crops Program, AMS, USDA, 1124 1st Street South, Winter Haven, FL 33880; Telephone: (863) 324–3375; Fax: (863) 291–8614; Email: *Steven.Kauffman@usda.gov.*

SUPPLEMENTARY INFORMATION: Section 1308 of the 2002 Farm Bill requires the Secretary establish and consult with the Board for the purpose of advising the Secretary regarding the establishment of quality and handling standards for all domestic and imported peanuts marketed in the United States.

The 2002 Farm Bill, as amended by § 12502 of the Agriculture Improvement Act of 2018, provides the Board's makeup will include three producers and three peanut industry representatives from States specified in each of the following producing regions: Southeast (Alabama, Georgia, and Florida); Southwest (Texas, Oklahoma, and New Mexico); and Virginia/Carolina (Virginia, North Carolina, and South Carolina). The Board consists of 18 members with representation equally divided between peanut producers and industry representatives. Each term of office is for a period of three years. The terms of office are staggered in order to replace one third of the Board each year.

The term ''peanut industry representatives'' includes, but is not limited to, representatives of shellers, manufacturers, buying points, marketing associations and marketing cooperatives. The 2002 Farm Bill exempted the appointment of the Board from the requirements of the Federal Advisory Committee Act.

USDA invites individuals, organizations, and groups affiliated with the categories listed above to nominate individuals for membership on the Board. All qualified nominees are forwarded for consideration as the Farm Bill does not provide for any voting. Appointees sought by this action will fill two positions in the Southeast region, two positions in the Southwest region, and two positions in the Virginia/Carolina region.

Nominees should complete an Advisory Committee or Research and Promotion Background Information form (AD–755) and submit it to Steven W. Kauffman at the address provided in the **ADDRESSES** section above. Copies of this form may be obtained at the internet site *http://www.ams.usda.gov/about-ams/facas-advisory-councils/peanut-board,* or from the Southeast Marketing Field Office. USDA seeks a diverse group of members representing the peanut industry.

Equal opportunity practices will be followed in all appointments to the Board in accordance with USDA policies. To ensure the recommendations of the Board have considered the needs of the diverse groups within the peanut industry, membership shall include, to the extent practicable, individuals with demonstrated abilities to represent minorities, women, persons with disabilities, and limited resource agriculture producers.

Authority: 7 U.S.C. 7958.

Dated: March 13, 2019.

Bruce Summers,

Administrator, Agricultural Marketing Service.

[FR Doc. 2019–05074 Filed 3–18–19; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Doc. No. AMS–NOP–18–0098; NOP–18–04]

National Organic Standards Board (NOSB): Call for Nominations

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice: call for nominations.

SUMMARY: The National Organic Standards Board (NOSB) was established to assist in the development of standards for substances to be used in organic production and to advise the Secretary on the implementation of the Organic Foods Production Act of 1990 (OFPA). Through this Notice, the United States Department of Agriculture (USDA) is announcing its call for nominations to fill five vacancies. Descriptions of the five positions are listed below under supplementary information. Appointees will serve a five-year term beginning January 24, 2020 and ending January 23, 2025. Additionally, the USDA seeks nominations for a pool of candidates that the Secretary of Agriculture can draw upon as replacement appointees if unexpected vacancies occur.

DATES: Written nominations must be postmarked on or before May 20, 2019.

ADDRESSES: Applications can be sent via email to Michelle Arsenault at *Michelle.Arsenault@ams.usda.gov,* or mailed to: USDA–AMS–NOP, 1400 Independence Avenue SW, Room 2642–S., Ag Stop 0268, Washington, DC 20250–0268. Electronic submittals are preferred.

FOR FURTHER INFORMATION CONTACT: Michelle Arsenault, (202) 720–0081; Email: *Michelle.Arsenault@ams.usda.gov.*

SUPPLEMENTARY INFORMATION: The OFPA, as amended (7 U.S.C. 6501 *et seq.*), requires the Secretary to establish the NOSB in accordance with the Federal Advisory Committee Act (FACA) (5 U.S.C. App. 2 *et seq.*). The NOSB is composed of 15 members: Four

individuals who own or operate an organic farming operation, or employees of such individuals (as amended by the Agriculture Improvement Act of 2018); two individuals who own or operate an organic handling operation, or employees of such individuals (as amended by the Agriculture Improvement Act of 2018); one individual who owns or operates a retail establishment with significant trade in organic products, or employees of such individuals (as amended by the Agriculture Improvement Act of 2018); three individuals with expertise in areas of environmental protection and resource conservation; three individuals who represent public interest or consumer interest groups; one scientist with expertise in the fields of toxicology, ecology, or biochemistry; and one individual who is a certifying agent.

Through this Notice, the United States Department of Agriculture (USDA) seeks to fill the following five positions: One individual with expertise in areas of environmental protection and resource conservation; one individual who owns or operates an organic farming operation or employees of such individuals; two individuals who own or operate an organic handling operation or employees of such individuals; and one individual who owns or operates a retail establishment with significant trade in organic products or an employee of such individuals.

As per the OFPA, individuals seeking appointment to the NOSB must meet the definition of the position that they seek as identified under 7 U.S.C. 6518, as well as satisfy the selection criteria for an NOSB member. Selection criteria include the following: An understanding of organic principles and practical experience in the organic community; demonstrated experience and interest in organic production and organic certification; demonstrated experience with respect to agricultural products produced and handled on certified organic farms; a commitment to the integrity of the organic food and fiber industry; demonstrated experience in the development of public policy such as participation on public or private advisory boards, boards of directors or other comparable organizations; support of consumer and public interest organizations; participation in standards development or involvement in educational outreach activities; the ability to evaluate technical information and to fully participate in Board deliberation and recommendations; the willingness to commit the time and energy necessary to assume Board duties; and other such factors as may be appropriate for specific positions.

All appointees will serve a five-year term beginning January 24, 2020 and ending January 23, 2025. Due to an unexpected member vacancy for one of the organic handling positions, one of the five appointed members will fill this seat. Historically, a candidate filling an unexpected vacancy completed the remaining term of that appointment. However, to promote greater efficiency and continuity of NOSB operations, a candidate filling an unexpected vacancy will now begin a new five-year term.

To nominate yourself or someone else, please submit the following: A resume (required), Form AD–755 (required), which can be accessed at: *https://www.ocio.usda.gov/document/ad-755,* a cover letter (optional), and a list of endorsements or letters of recommendation (optional). Resumes should be no longer than 5 pages and should include a summary of the following information: Current and past organization affiliations; areas of expertise; education; career positions held; any other notable positions held. Previous applicants who wish to be considered must reapply.

If USDA receives a request under the Freedom of Information Act (FOIA) (5 U.S.C. 552) for records relating to NOSB nominations, your application materials may be released to the requester. Prior to the release of the information, personally identifiable information protected by the Privacy Act, 5 U.S.C. 552a, will be redacted.

Nominations are open to all individuals without regard to race, color, religion, gender, national origin, age, mental or physical disability, marital status, or sexual orientation. To ensure that the recommendations of the NOSB take into account the needs of the diverse groups that are served by the Department, membership on the NOSB shall include, to the extent practicable, individuals with demonstrated ability to represent minorities, women, and persons with disabilities.

The information collection requirements concerning the nomination process have been previously cleared by the Office of Management and Budget (OMB) under OMB Control No. 0505–0001.

Dated: March 13, 2019.

Bruce Summers,

Administrator, Agricultural Marketing Service.

[FR Doc. 2019–05075 Filed 3–18–19; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Research Service

Economic Research Service

National Agricultural Statistics Service

National Institute of Food and Agriculture

2018 Research, Education, and Economics Farm Bill Implementation Listening Session

AGENCY: Agricultural Research Service, Economic Research Service, National Agricultural Statistics Service, National Institute of Food and Agriculture, Office of the Chief Scientist, USDA.

ACTION: Notice.

SUMMARY: In preparing to implement the Agriculture Improvement Act of 2018 (commonly referred to as the 2018 Farm Bill), USDA's Research, Education, and Economics (REE) mission area will host a listening session for public input regarding new programs and changes to existing programs implemented by the Agricultural Research Service (ARS), Economic Research Service (ERS), National Agricultural Statistics Service (NASS), National Institute of Food and Agriculture (NIFA), and the Office of the Chief Scientist (OCS).

DATES: *Listening session:* The listening session will be held on March 21, 2019 between the hours of 1 p.m. and 5 p.m. Eastern. Exact times to be announced upon registering.

Registration: You must register by 5 p.m. Eastern on March 20, 2019, to attend the listening session in person. If you are attending the listening session there is an expectation that the organization you are representing will be presenting oral comments. Attendance is limited to three individuals per organization; all individuals must register, but all three are not required to speak. In addition to presenting orally, you are also encouraged to submit one page of written comments by 5 p.m. Eastern on March 29, 2019. While we recommend written submissions be no more than one page or 500 words, we will accept materials that exceed those lengths.

Comments: If you are unable to attend the listening session in-person, written comments are welcome and are due by 5pm Eastern on March 29, 2019 to *http://www.regulations.gov.* Stakeholders attending the listening session in-person are welcome to submit comments to the **Federal Register**, but are not required. Stakeholder input received orally and in writing will be

treated equally. All written comments received will be publicly available on *http://www.regulations.gov.* All oral comments will be transcribed and posted online within one month of the session.

ADDRESSES: *Listening session:* The meeting will be held at USDA headquarters in Washington, DC starting at 1 p.m. Eastern. Additional room details will be available upon registering at *reelistens@usda.gov* If you have questions, feel free to email *REElistens@usda.gov.*

Comments: We invite all who are interested to submit comments on this notice. In your comments, include the date, volume, and page number of this issue of the **Federal Register**, and the title of this notice. You may submit written comments until 5 p.m. Eastern on March 29, 2019 through the *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.

FOR FURTHER INFORMATION CONTACT: Tiffany K. Jones, Research, Education, and Economics, USDA, 1400 Independence Avenue SW, Room 214–W, Washington, DC 20250; Telephone: (202) 720–1542, or Email: *Tiffany.K.Jones@osec.usda.gov.*

Persons with disabilities who require alternative means for communication should contact the USDA Target Center at (202) 720–2600 (voice).

SUPPLEMENTARY INFORMATION: The 2018 Farm Bill is intended to strengthen the agricultural research, education, and extension framework supporting the continuous technological advancement that has led to the success of the U.S. agricultural system. The listening session and open public comment period will provide an opportunity for stakeholders to share their thoughts about how USDA can streamline and improve program delivery, as well as enhance customer service. ARS conducts agricultural research over 690 research programs at laboratories in over 90 locations across the country. NASS and ERS collect and report data and economic analyses which are critical to producers, markets, and policy decision makers. NIFA is the extramural science funding agency within USDA that invests in and advances agricultural research, education, and extension to help solve national challenges in agriculture, food, the environment, and communities. The Office of the Chief Scientist provides strategic coordination of the science that informs the Department's and the Federal government's decisions, policies and regulations that impact all aspects of U.S. food and agriculture. We invite you to participate in the listening session in person or by submitting written comments to the **Federal Register**, pre-registration is required. The listening session will be transcribed and posted online within one month of the listening session.

On December 20, 2018, the 2018 Farm Bill (Pub. L. 115–334) was signed into law (see *https://www.congress.gov/bill/115th-congress/house-bill/2/text*). The Secretary of Agriculture and the respective USDA agencies, including, but not limited to ARS, ERS, NASS, and NIFA, are working to implement the provisions of the 2018 Farm Bill as expeditiously as possible to meet the needs of stakeholders. To allow for customer input and ensure transparency, it is important to hear from stakeholders regarding their priorities, concerns, and requests.

The purpose of the listening session is for REE to hear from the public; this is not a discussion with REE officials or a question and answer session. The purpose is to receive public input that each agency can factor into discretionary decisions that need to be made to implement the provisions of the 2018 Farm Bill.

The meeting is scheduled for 1 p.m.–5 p.m. Eastern on March 21, 2019, in the Jefferson Auditorium of the South Building of the USDA Headquarters at 14th Street and Independence Avenue SW, Washington, DC 20250.

The listening session will begin with brief opening remarks from USDA. Individual speakers providing oral comments will be limited to 3–5 minutes each. As noted above, speakers providing oral comments are encouraged, but not required to provide a written copy of their comments to the **Federal Register** by March 29 2019. All stakeholders interested in providing oral and written comments; are welcome to do so.

The purpose of the listening session is for REE to hear from stakeholders and other interested members of the public about the programs that are being implemented or revised by REE as required by the 2018 Farm Bill. Please refer to the name of the ARS, ERS, NASS, NIFA, or OCS program in your comment and the relevant section number in the 2018 Farm Bill. In your comments, provide your input about program changes, and anything else that may be helpful to USDA.

To identify the section numbers for your comments and to find the relevant text for ARS, ERS, NASS, NIFA, or OCS programs in the 2018 Farm Bill, the following is a list of sections for the ARS, ERS, NASS, and NIFA programs. Note, however, these relevant sections are not exhaustive, as REE has several provisions in other Farm Bill Titles:

Sec. 7101. Purposes of agricultural research, extension, and education.
Sec. 7102. Matters related to certain school designations and declarations.
Sec. 7103. National Agricultural Research, Extension, Education, and Economics Advisory Board.
Sec. 7104. Specialty crop committee.
Sec. 7105. Renewable energy committee discontinued.
Sec. 7106. Veterinary services grant program.
Sec. 7107. Grants and fellowships for food and agriculture sciences education.
Sec. 7109. Education grants to Alaska Native serving institutions and Native Hawaiian serving institutions.
Sec. 7110. Next generation agriculture technology challenge.
Sec. 7111. Land-grant designation.
Sec. 7112. Nutrition education program.
Sec. 7113. Continuing animal health and disease research programs.
Sec. 7114. Carryover of funds for extension at 1890 land-grant colleges, including Tuskegee University.
Sec. 7115. Extension and agricultural research at 1890 land-grant colleges, including Tuskegee University.
Sec. 7116. Reports on disbursement of funds for agricultural research and extension at 1862 and 1890 land-grant colleges, including Tuskegee University.
Sec. 7117. Scholarships for students at 1890 institutions.
Sec. 7118. Grants to upgrade agricultural and food sciences facilities at 1890 land-grant colleges, including Tuskegee University.
Sec. 7119. Grants to upgrade agriculture and food sciences facilities and equipment at insular area land-grant institutions.
Sec. 7120. New Beginning for Tribal Students.
Sec. 7121. Hispanic-serving institutions.
Sec. 7122. Binational agricultural research and development.
Sec. 7123. Partnerships to build capacity in international agricultural research, extension, and teaching.
Sec. 7124. Competitive grants for international agricultural science and education programs.
Sec. 7125. Limitation on indirect costs for agricultural research, education, and extension programs.
Sec. 7126. Research equipment grants.
Sec. 7127. University research.
Sec. 7128. Extension service.
Sec. 7129. Supplemental and alternative crops; hemp.
Sec. 7130. New Era Rural Technology program.
Sec. 7131. Capacity building grants for NLGCA Institutions.
Sec. 7132. Agriculture advanced research and development authority pilot.
Sec. 7133. Aquaculture assistance programs.
Sec. 7134. Rangeland research programs.
Sec. 7135. Special authorization for biosecurity planning and response.
Sec. 7136. Distance education and resident instruction grants program for insular area institutions of higher education.
Sec. 7201. Best utilization of biological applications.

Sec. 7202. Integrated management systems.
Sec. 7203. Sustainable agriculture technology development and transfer program.
Sec. 7204. National training program.
Sec. 7205. National strategic germplasm and cultivar collection assessment and utilization plan.
Sec. 7206. National Genetics Resources Program.
Sec. 7207. National Agricultural Weather Information System.
Sec. 7208. Agricultural genome to phenome initiative.
Sec. 7209. High-priority research and extension initiatives.
Sec. 7210. Organic agriculture research and extension initiative.
Sec. 7211. Farm business management.
Sec. 7212. Urban, indoor, and other emerging agricultural production research, education, and extension initiative.
Sec. 7213. Centers of excellence at 1890 Institutions.
Sec. 7214. Clarification of veteran eligibility for assistive technology program for farmers with disabilities.
Sec. 7215. National Rural Information Center Clearinghouse.
Sec. 7301. National food safety training, education, extension, outreach, and technical assistance program.
Sec. 7302. Integrated research, education, and extension competitive grants program.
Sec. 7303. Support for research regarding diseases of wheat, triticale, and barley caused by Fusarium graminearum or by Tilletia indica.
Sec. 7304. Grants for youth organizations.
Sec. 7305. Specialty crop research initiative.
Sec. 7306. Food Animal Residue Avoidance Database program.
Sec. 7308. Forestry products advanced utilization research.
Sec. 7401. Agricultural biosecurity communication center.
Sec. 7402. Assistance to build local capacity in agricultural biosecurity planning, preparation, and response.
Sec. 7403. Research and development of agricultural countermeasures.
Sec. 7404. Agricultural biosecurity grant program.
Sec. 7411. Grazing lands research laboratory.
Sec. 7412. Farm and Ranch Stress Assistance Network.
Sec. 7413. Natural products research program.
Sec. 7414. Sun grant program.
Sec. 7501. Critical Agricultural Materials Act.
Sec. 7502. Equity in Educational Land-Grant Status Act of 1994.
Sec. 7503. Research Facilities Act.
Sec. 7504. Agriculture and Food Research Initiative.
Sec. 7505. Extension design and demonstration initiative.
Sec. 7506. Repeal of review of agricultural research service.
Sec. 7507. Biomass research and development.
Sec. 7508. Reinstatement of matching requirement for Federal funds used in extension work at the University of the District of Columbia.
Sec. 7509. Renewable Resources Extension Act of 1978.
Sec. 7510. National Aquaculture Act of 1980.
Sec. 7511. Federal agriculture research facilities.
Sec. 7601. Enhanced use lease authority program.
Sec. 7602. Transfer of administrative jurisdiction over portion of Henry A. Wallace Beltsville Agricultural Research Center, Beltsville, Maryland.
Sec. 7603. Foundation for food and agriculture research.
Sec. 7604. Assistance for forestry research under the McIntire-Stennis Cooperative Forestry Act.
Sec. 7606. Collection of data relating to barley area planted and harvested.
Sec. 7607. Collection of data relating to the size and location of dairy farms.
Sec. 7609. Smith-Lever community extension program.
Sec. 7610. Mechanization and automation for specialty crops.
Sec. 7611. Experienced services program.
Sec. 7612. Simplified plan of work.
Sec. 7613. Review of land-grant time and effort reporting requirements.
Sec. 7614. Matching funds requirement.
Sec. 12301. Farming opportunities training and outreach.
Sec. 12302. Urban agriculture.
Sec. 12411. Office of the Chief Scientist.
Sec. 12607. Reports on Land Access and Farmland Ownership Data Collection.

Instructions for Attending the Meeting

Space for attendance at the listening session is limited. All organizations wishing to speak at the listening session must register by emailing *REElistens@usda.gov* by 5 p.m. Eastern on March 20, 2019. To register, the following information will be required:

- Attendee contact information;
- Company or organization representation information;
- Farm Bill topic interests; and
- The number of speakers.
- *Optional:* Written comments submitted to the **Federal Register** by 5 p.m. Eastern on March 29, 2019.

Upon arrival at the USDA, only registered persons providing valid photo identification will be permitted to enter. Extra time should be allotted to get through airport style security.

All written comments received will be publicly available on *www.regulations.gov*.

If you require special accommodations, such as a sign language interpreter, use the contact information above. The listening session location is accessible to persons with disabilities.

REE is interested in all comments. Additionally, feedback and comments received on REE-related sections may inform future webinars/listening sessions.

Stephen Censky,
Deputy Secretary, USDA.

[FR Doc. 2019–05132 Filed 3–14–19; 4:15 pm]
BILLING CODE 3410–05–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2018–0030]

Notice of Availability of an Evaluation of the Fever Tick Status of the State of Baja California, Mexico

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of availability.

SUMMARY: We are notifying the public that we have prepared an evaluation of the State of Baja California, Mexico for fever ticks. The evaluation concludes that this region is free from fever ticks, and that ruminants imported from the area pose a low risk of exposing ruminants within the United States to fever ticks. We are making the evaluation available for review and comment.

DATES: We will consider all comments that we receive on or before May 20, 2019.

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

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov/#!docketDetail;D=APHIS-2018-0030.*
- *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS–2018–0030, 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-2018-0030* or in our reading room, which is located in Room 1141 of the USDA South Building, 14th Street and Independence Avenue SW, Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799–7039 before coming.

FOR FURTHER INFORMATION CONTACT: Dr. Betzaida Lopez, Senior Staff Veterinarian, Strategy and Policy, VS, APHIS, 4700 River Road, Unit 39, Riverdale, MD 20737; (301) 851–3300.

SUPPLEMENTARY INFORMATION: The regulations in 9 CFR part 93 prohibit or

restrict the importation of certain animals, birds, and poultry into the United States to prevent the introduction of communicable diseases of livestock and poultry. Subpart D of part 93 (§§ 93.400 through 93.436, referred to below as the regulations) governs the importation of ruminants; within the regulations, §§ 93.424 through 93.429 specifically address the importation of various ruminants from Mexico into the United States.

The regulations in paragraph (b)(1) of § 93.427 contain conditions for the importation of ruminants from regions of Mexico that we consider free from fever ticks (*Boophilus annulatus*). Regions of Mexico that we consider free from fever ticks are listed at *https://www.aphis.usda.gov/aphis/ourfocus/animalhealth/animal-and-animal-product-import-information/animal-health-status-of-regions/animal-health-status-of-regions.*

Mexico has asked the Animal and Plant Health Inspection Service to recognize the State of Baja California as a region free from fever ticks. In response to this request, we have prepared an evaluation of the fever tick status of this region. The evaluation concludes that the State of Baja California is free from fever ticks, and that ruminants imported from the region pose a low risk of exposing ruminants within the United States to fever ticks.

We are making the evaluation available for public review and comment. The assessment is available on the *Regulations.gov* website (see **ADDRESSES** above) or by contacting the person listed in this document under the heading **FOR FURTHER INFORMATION CONTACT**. After the close of the comment period, we will notify the public of our final determination regarding the fever tick status of the State of Baja California.

Authority: 7 U.S.C. 1622 and 8301–8317; 21 U.S.C. 136 and 136a; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.4.

Done in Washington, DC, March 13, 2019.

Kevin Shea,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2019–05072 Filed 3–18–19; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2018–0043]

Notice of Availability of an Evaluation of the Foot-and-Mouth Disease Status of Singapore

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of availability.

SUMMARY: We are advising the public that we are proposing to recognize Singapore as being free of foot-and-mouth disease. This proposed recognition is based on an evaluation we have prepared in connection with this action, which we are making available for review and comment.

DATES: We will consider all comments that we receive on or before May 20, 2019.

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

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov/#!docketDetail;D=APHIS-2018-0043.*
- *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS–2018–0043, 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-2018-0043* or in our reading room, which is located in Room 1141 of the USDA South Building, 14th Street and Independence Avenue SW, Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799–7039 before coming.

FOR FURTHER INFORMATION CONTACT: Dr. Roberta A. Morales, Senior Staff Veterinarian, Regionalization Evaluation Services, Strategy and Policy, VS, APHIS, 920 Main Campus Drive, Raleigh, NC 27606; (919) 855–7735; *Roberta.A.Morales@aphis.usda.gov.*

SUPPLEMENTARY INFORMATION: The regulations in 9 CFR part 94 (referred to below as the regulations) govern the importation of certain animals and animal products into the United States to prevent the introduction of various animal diseases, including foot-and-mouth disease (FMD). The regulations prohibit or restrict the importation of live ruminants and swine, and products from these animals, from regions where APHIS considers FMD to exist.

Within part 94, § 94.1 contains requirements governing the importation of ruminants and swine from regions where FMD exists and the importation of the meat of any ruminants or swine from regions where FMD exists to prevent the introduction of this disease into the United States. We consider FMD to exist in all regions except those listed in accordance with paragraph (a) of that section as free of FMD.

Section 94.11 of the regulations contains requirements governing the importation of meat of any ruminants or swine from regions that have been determined to be free of FMD, but that are subject to certain restrictions because of their proximity to or trading relationships with FMD-affected regions. Such regions are listed in accordance with paragraph (a) of that section.

The regulations in 9 CFR part 92, § 92.2, contain requirements for requesting the recognition of the animal health status of a region (as well as for the approval of the export of a particular type of animal or animal product to the United States from a foreign region). If, after review and evaluation of the information submitted in support of the request, APHIS believes the request can be safely granted, APHIS will make its evaluation available for public comment through a document published in the **Federal Register**. Following the close of the comment period, APHIS will review all comments received and will make a final determination regarding the request that will be detailed in another document published in the **Federal Register**.

Singapore submitted a request to APHIS to evaluate the FMD status of the country. In response to this request, APHIS conducted a qualitative risk assessment to evaluate Singapore with respect to this disease. Based on this evaluation, APHIS recognizes Singapore to be free of FMD. APHIS has also determined that the surveillance, prevention, and control measures implemented by Singapore are sufficient to minimize the likelihood of introducing FMD into the United States via imports of species susceptible to this disease or products of those species. Our determination supports adding Singapore to the Web-based list of regions APHIS considers free of FMD.

Therefore, in accordance with § 92.2(e), we are announcing the availability of our risk evaluation of the FMD status of Singapore for public review and comment. We are also announcing the availability of an environmental assessment (EA), which

has been prepared in accordance with: (1) The National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321 *et seq.*), (2) regulations of the Council on Environmental Quality for implementing the procedural provision of NEPA (40 CFR parts 1500–1508), (3) USDA regulations implementing NEPA (7 CFR part 1b), and (4) APHIS' NEPA Implementing Procedures (7 CFR part 372). The evaluation and the EA may be viewed on the *Regulations.gov* website or in our reading room. (Instructions for accessing *Regulations.gov* and information on the location and hours of the reading room are provided under the heading **ADDRESSES** at the beginning of this notice.) The documents are also available by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**.

Information submitted in support of Singapore's original request is available by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**.

After reviewing any comments we receive, we will announce our decision regarding the disease status of Singapore with respect to FMD and the import status of susceptible animals and products of such animals in a subsequent notice.

Authority: 7 U.S.C. 1633, 7701–7772, 7781–7786, and 8301–8317; 21 U.S.C. 136 and 136a; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.4.

Done in Washington, DC, this March 13, 2019.

Kevin Shea,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2019–05073 Filed 3–18–19; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Agency Information Collection Activities: How States Safeguard SNAP Participant Personally Identifiable Information

AGENCY: Food and Nutrition Service (FNS), United States Department of Agriculture (USDA).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice invites the general public and other public agencies to comment on this proposed information collection. This is a new information collection. The Supplemental Nutrition Assistance Program (SNAP) is the largest domestic nutrition assistance program in the United States, having served approximately 20.1 million low-income households in 2018, with $60.1 billion in benefits provided during that time. Section 11(e)(8) of the Food, Conservation, and Energy Act of 2008 requires that these millions of households must submit personally identifiable information (PII) in order to receive SNAP benefits. PII includes information that directly identifies individuals, such as individuals' names and Social Security numbers, as well as information like home addresses, which can be used to deduce the identity of an individual. While State agencies (SAs) implement policies to safeguard SNAP PII, little is systematically known about the policies and practices that SAs have in place. Accordingly, FNS wants to assess the ways that States safeguard SNAP PII and identify best practices to protect such information.

DATES: Written comments on this notice must be received on or before May 20, 2019.

ADDRESSES: Comments are invited on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions that were 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 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: Jenny Laster Genser, Office of Policy Support, U.S. Department of Agriculture, Food and Nutrition Service, 3101 Park Center Drive, Room 1014, Alexandria, VA 22302. Comments may also be submitted via fax to the attention of Jenny Laster Genser at 703–305–2576 or via email to *jenny.genser@fns.usda.gov*. Comments will also be accepted through the Federal eRulemaking Portal. Go to *http://www.regulations.gov* and follow the online instructions for submitting comments electronically.

All written comments will be open for public inspection at FNS offices during regular business hours (8:30 a.m. to 5:00 p.m. Eastern Time, Monday through Friday) at 3101 Park Center Drive, Room 1014, Alexandria, VA 22302.

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

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Jenny Laster Genser at 703–305–2559.

SUPPLEMENTARY INFORMATION:

Title: How States Safeguard SNAP Participant Personally Identifiable Information.

OMB Number: 0584–NEW.

Expiration Date of Approval: Not yet determined.

Type of Information Collection Request: New Collection.

Abstract: Supplemental Nutrition Assistance Program (SNAP) benefits are funded by the Federal Government through the U.S. Department of Agriculture (USDA) Food and Nutrition Service (FNS). FNS and State SNAP agencies (SAs) share responsibility for program administration and associated administrative expenses. As part of their administrative responsibilities, SAs are required to ensure that all personally identifiable information (PII) provided by SNAP applicants and participants is properly safeguarded and secure. SAs develop security plans as part of their Advanced Planning Document (OMB number 0584–0083, expires 7/30/2020), which is required in order for the SA to obtain federal funding for information systems updates.

No known breaches of SNAP data have occurred to date. However, the following circumstances suggest a need for more focus on data security: (1) The growing amount of data stored by SAs (and by the Federal Government as a whole); (2) the degree to which PII is shared or matched with data from multiple State and Federal agencies, with a wide variety of matches required by statute; and (3) the increasingly sophisticated methods for breaching datasets. These trends, in combination with limited resources for many SAs, may have left many States vulnerable to data security breaches. The contexts in which SAs must operate (for example, outdated computer systems) may also contribute to inadequate levels of PII security. Because little is known about the security protocols, policies, and procedures that SAs implement in protecting PII, FNS seeks to examine how States are currently protecting SNAP applicant/participant PII that is submitted in SNAP applications and maintained in SNAP caseload files.

This study has five main objectives: (1) Describe legislation, regulations, and policies that address how participants' PII must be safeguarded; (2) describe methods that can be used to safeguard

PII; (3) describe how States currently safeguard participants' PII; (4) examine the consistency of safeguarding practices across States; and (5) provide recommendations to States to improve safeguarding of PII.

The study will draw on the following primary data sources:

- A web-based survey of all 53 SA SNAP Directors and other relevant SA staff, which will obtain information on safeguarding methods and current processes required to address research questions under Objectives 2, 3, and 4. The survey respondents will also include up to two State information technology (IT) and/or data/program analysts in each of the 53 SAs to provide technical information that the SA Director may not know. The survey is expected to take a cumulative total of 1 hour to complete across the three respondents.
- Semi-structured, 1-hour telephone interviews with five industry experts who will provide broader views of PII protection in private-sector companies and in other public agencies (business or not-for-profit), which will clarify both private-industry and public-sector benchmarks for information security, thereby informing Objectives 1, 2, and 5.
- In-depth, semi-structured telephone interviews (expected to be 1 hour long) with five SA SNAP Directors in five States that have been identified as strong examples of best practices for protecting PII. The interviews will also include the same two State IT and data/program analysts who responded to the web survey, again to provide technical information that the SA SNAP Director may not know. Selection of these States will be based on the discussions with industry experts and on analysis of the web survey. These interviews will provide information relevant to Objective 5.

Secondary information sources will include laws, regulations, policies, and FNS guidance materials, which will be used to address Objective 1 research questions.

FNS will use the information collected to provide information to SAs on ways they can improve how they safeguard SNAP PII. SAs may have developed innovative and cost-effective methods that can be shared with other States. In addition, information from this study will provide insight into the various constraints SAs face in their efforts to maintain PII protection. By further understanding these constraints, future policies and regulations can support SAs in maintaining adequate protection.

Affected Public: State governments (SA SNAP Directors, SA IT staff, and SA data/program analysts) and Business or Not-for-Profit Private/Commercial Industry (industry experts).

Estimated Number of Respondents: (169 in total, with 164 respondents, and 5 nonrespondents). Estimates of respondent burden account for the fact that multiple staff may need to be consulted for SAs to address all of the topics explored in the web survey and also (for those selected) in the exemplary SA interviews. The total estimated number of respondents for the web-based survey is 53 SA SNAP Directors, 53 SA IT staff, and 53 SNAP program/data analysts, and 5 business-sector respondents for the industry expert interviews. The semi-structured interviews with five exemplary SAs are assumed to be with the same staff who completed the web survey for these States, so they are not considered additional respondents.

The estimated number of respondents for the web survey and interviews are as follows:

(1) *SA Web Survey:* The sample for this collection includes all 53 SA SNAP Directors (50 U.S. States, 2 U.S. Territories, and the District of Columbia); 53 SA IT staff; and 53 SA data/program analysts, all of whom are expected to respond. To make response as easy as possible, the study team will send biweekly email reminders throughout the data collection period (14 weeks) to SAs that have not yet responded. If an SA has not responded within 6 weeks, the study team will then reach out via telephone reminder calls in the weeks between emails. The initial mailing will encourage the SA Director to assign parts of the instrument that require detailed IT or security expertise to other staff members, as appropriate, simply by forwarding the original email containing the link to the survey. On the study team's behalf, the SA SNAP Director will send the survey to up to two senior IT staff or data/program analysts. The survey's estimated duration of 1 hour will be split evenly across the three respondents (20 minutes or .33 hour each). The study team will offer resources in the form of telephone and email help desks to provide quick answers to any questions (including problems with survey access), along with answers to frequently asked questions (FAQs) that will be accessible from within the survey or separately. As SA Directors submit surveys, an automated process will check the quality and completeness of each survey, allowing the study team to recontact the respondents promptly, if necessary. Total respondents = 159, assuming full cooperation by SAs.

(2) Business: *Industry Expert Interviews:* The sample for this collection will initially include up to 10 industry experts, selected using snowball sampling based on the experts' knowledge of IT, SNAP data collection and management, and privacy protection standards and practices. The study team will prioritize the list of experts, and study team recruiters will proceed down the list in order until five experts have agreed to participate. The study team will conduct these interviews by telephone, so follow-up calls generally will not be needed. The team expects to contact no more than 10 individuals (5 respondents and up to 5 nonrespondents).

(3) *Exemplary SA Interviews:* The sample for this collection includes up to seven SA SNAP Directors. When five SA SNAP Directors agree to participate, they will be supported during the interview by up to two SNAP senior IT staff or data/program analysts. These staff are assumed to be the same individuals who previously completed the web survey. The five exemplary SAs will be selected using information gathered through the web survey and industry expert interviews. The assumption is that obtaining cooperation among SAs called ''exemplary'' will only require contacts with seven SAs to obtain five exemplary SA interviews. The study team will conduct these interviews by telephone conference call, with all respondents from a given SA participating jointly or in another, similar format. The number of respondents will be unchanged, since all are assumed to have participated in the web survey. The number of nonrespondents is expected to be no more than two, but they also are assumed to have participated in the web survey.

Estimated Total Number of Respondents: 169 across the 3 data collection efforts. The total number of respondents contacted will be 159 for the web survey (53 SAs with up to 3 respondents each) and, at most, 5 respondents (and 5 nonrespondents) for the industry expert interviews. The number of respondents contacted for the exemplary SA interviews is 7 SA SNAP Directors (out of which 2 are nonrespondents), and 10 staff for the 5 directors who agree to the interview. For all individuals contacted, it is assumed that the respondents will be the same individuals who are responding to the web survey, so they are not included in the total.

Estimated Number of Responses per Respondent: 4.71. SA SNAP Director respondents will be asked to complete the web survey one time. Each SA

SNAP Director may receive up to 8 follow-up/reminder emails and up to 6 reminder phone calls until the target of 53 respondents is reached. After completing the survey, there may be up to three brief additional contacts—two for questions and one for a thank-you email.

The five SA SNAP Directors selected to participate in the exemplary SA interviews will be interviewed one time. The five selected SA SNAP Directors may receive up to three invitation and follow-up emails and up to two reminder phone calls to confirm the time of the planned interview until the target of five respondents is reached.

The five industry experts who agree to participate in the industry expert interviews will be interviewed one time. Ten selected experts may receive up to three invitation/recruiting emails and up to two reminder phone calls to confirm the time of the planned interview, until the target of five respondents is reached. All who participate will receive thank-you emails.

For the exemplary SA interviews, there is a total of six pre- and post-interview responses in addition to the interview. (We assume that only one of the staff attending the exemplary SA interview will receive the contacts before and after the interview.)

Estimated Total Annual Responses: 796. All 53 SA SNAP Directors will complete the web survey with up to 106 others assisting them, with up to 13 reminders before the survey is completed and up to 3 contacts afterwards. Up to 7 SA SNAP Directors will be recruited to reach five SA SNAP Directors for the exemplary SA interviews, but the study team does not count these five as respondents because they are expected to have completed the web survey earlier. Additionally, 10 industry experts will be recruited for the industry expert interviews until the target of 5 respondents is reached. Both types of semi-structured interviews may involve as many as five contacts to arrange the interview and one post-interview contact (thank-you email). We also include burden on nonrespondents from receiving and reading the various recruiting contacts (emails or phone calls).

Estimated Time per Response: 0.14 hours. The estimated time per web survey response is 1 hour. The estimated time per interview is 1 hour. The estimated time will vary depending on the type of contact and will range from 2 minutes (0.03 hours) to 3 hours (when three staff participate in a 1-hour interview). The following table outlines the estimated total annual burden for each type of respondent and for nonrespondents.

Estimated Total Annual Burden on Respondents: The annual reporting burden is estimated to be 108.76 hours.

Dated: March 7, 2019.

Brandon Lipps,

Administrator, Food and Nutrition Service.

BILLING CODE 3410–30–P

Affected Public	Respondent Type	Data Collection Activity	Original Sample Size	Responsive					Nonresponsive					Estimated Total Annual Hour Burden
				Estimated Number of Respondents	Frequency of Response	Estimated Total Annual Responses	Hours Per Response	Estimated Annual Burden (Hours)	Estimated Number of Respondents	Frequency of Response	Estimated Total Annual Responses	Hours Per Response	Estimated Annual Burden (Hours)	
Private/ Commercial Industry	Industry Experts	*Semi-Structured Interview – Industry Experts Recruitment 1 (Email)	10	1	1	1	0.05	0.05	9	1	9	0.03	0.27	**0.32**
		*FAQs – Industry Experts	10	10	1	10	0.15	1.50	0	1	0	0.15	0.00	**1.50**
		*Semi-Structured Interview – Industry Experts Recruitment 2 (Email)	9	1	1	1	0.05	0.05	8	1	8	0.03	0.24	**0.29**
		*Semi-Structured Interview – Industry Experts Recruitment 1 (Phone Calls)	8	2	1	2	0.08	0.17	6	1	6	0.03	0.18	**0.35**
		*Semi-Structured Interview – Industry Experts Recruitment 3 (Email)	6	1	1	1	0.05	0.05	5	1	5	0.03	0.15	**0.20**
		*Semi-Structured Interview – Industry Experts Recruitment 2 (Phone Calls)	5	1	1	1	0.08	0.08	4	1	4	0.08	0.32	**0.40**
		**Conducting How States Safeguard SNAP Participant PII Semi-Structured **Interview – Industry Experts (Data Collection)	5	5	1	5	1.00	5.00	0	1	0	0.03	0.00	**5.00**
		***Thank-You Email for Participation in Study	5	5	1	5	0.05	0.25	0	1	0	0.03	0.00	**0.25**
	Private/Commercial Industry Subtotal		**10**	**5**	**1**	**26**	**0.28**	**7.15**	**5**	**0**	**32**	**0.04**	**1.16**	**8.31**
State Government	SA Directors	*Pre-Survey Notification Letter (Web Survey) to SA Directors	53	53	1	53	0.05	2.65	0	1	0	0.03	0.00	**2.65**
		*FAQs – Web Survey	53	53	1	53	0.15	7.95	0	1	0	0.15	0.00	**7.95**
		*Survey Notification Email (Web Survey with Link)	53	3	1	3	0.05	0.15	50	1	50	0.03	1.50	**1.65**
		*Survey Reminder Email 1 (Web Survey with Link)	50	5	1	5	0.05	0.25	45	1	45	0.03	1.35	**1.60**
		*Survey Reminder Email 2 (Web Survey with Link)	45	5	1	5	0.05	0.25	40	1	40	0.03	1.20	**1.45**
		*Survey Reminder Email 3 (Web Survey with Link)	40	4	1	4	0.05	0.20	36	1	36	0.03	1.08	**1.28**
		*Survey – SA Director Telephone Reminder Script (Web Survey)	36	5	1	5	0.08	0.40	31	1	31	0.08	2.48	**2.88**
		*Survey Reminder Email 4 (Web Survey with Link)	31	4	1	4	0.05	0.20	27	1	27	0.03	0.81	**1.01**
		*Survey – SA Director Telephone Reminder Script (Web Survey)	27	5	1	5	0.08	0.40	22	1	22	0.08	1.76	**2.16**
		*Survey Reminder Email 5 (Web Survey with Link)	22	5	1	5	0.05	0.25	17	1	17	0.03	0.51	**0.76**
		*Survey – SA Director Telephone Reminder Script (Web Survey)	17	3	1	3	0.08	0.24	14	1	14	0.08	1.12	**1.36**
		*Survey Reminder Email 6 (Web Survey with Link)	14	3	1	3	0.05	0.15	11	1	11	0.03	0.33	**0.48**
		*Survey – SA Director Telephone Reminder Script (Web Survey)	11	3	1	3	0.08	0.24	8	1	8	0.08	0.64	**0.88**
		*Survey – Survey Reminder Email 7 (Web Survey with Link)	8	3	1	3	0.05	0.15	5	1	5	0.03	0.15	**0.30**
		*Survey – SA Director Telephone Reminder Script (Web Survey)	5	3	1	3	0.08	0.24	2	1	2	0.08	0.16	**0.40**
		*Survey Reminder Email 8 (Web Survey with Link)	2	2	1	2	0.05	0.10	0	1	0	0.03	0.00	**0.10**
		**Conducting How States Safeguard SNAP Participant PII Web Survey (Data Collection)	53	53	1	53	0.33	17.67	0	1	0	0.03	0.00	**17.67**
		***Post-Survey Response Clarification Email (Web Survey)	5	2	1	2	0.05	0.10	3	1	3	0.03	0.09	**0.19**
		***Post-Survey Response Clarification Phone Call Script (Web Survey)	3	3	1	3	0.08	0.25	0	1	0	0.08	0.00	**0.25**
		***Post-Survey Thank-You Email (Web Survey)	53	53	1	53	0.05	2.65	0	1	0	0.03	0.00	**2.65**
		*Pre-Interview Notification Letter (Semi-Structured Interview – SA)	7	1	1	1	0.05	0.05	6	1	6	0.03	0.18	**0.23**

Affected Public	Respondent Type	Data Collection Activity	Original Sample Size	Responsive					Nonresponsive					Estimated Total Annual Hour Burden
				Estimated Number of Respondents	Frequency of Response	Estimated Total Annual Responses	Hours Per Response	Estimated Annual Burden (Hours)	Estimated Number of Respondents	Frequency of Response	Estimated Total Annual Responses	Hours Per Response	Estimated Annual Burden (Hours)	
		FAQs – SA Exemplars	7	7	1	7	0.15	1.05	0	1	0	0.15	0.00	**1.05**
		*Semi-Structured Interview – SA Recruitment 1 (Email)	6	1	1	1	0.05	0.05	5	1	5	0.03	0.15	**0.20**
		*Semi-Structured Interview – SA Recruitment 1 (Phone Calls)	5	1	1	1	0.08	0.08	4	1	4	0.08	0.33	**0.42**
		*Semi-Structured Interview – SA Recruitment 2 (Email)	4	1	1	1	0.05	0.05	3	1	3	0.03	0.09	**0.14**
		*Semi-Structured Interview – SA Recruitment 2 (Phone Calls)	2	1	1	1	0.08	0.08	1	1	1	0.08	0.08	**0.16**
		**Conducting How States Safeguard SNAP Participant PII Semi-Structured Interview – SA Exemplars (Data Collection)	5	5	1	5	1.00	5.00	0	1	0	0.03	0.00	**5.00**
		***Thank-You Email for Participation in Study	5	5	1	5	0.05	0.25	0	1	0	0.03	0.00	**0.25**
	IT Systems Staff	**Conducting How States Safeguard SNAP Participant PII Web Survey (Data Collection)	53	53	1	53	0.33	17.67	0	1	0	0.03	0.00	**17.67**
		**Conducting How States Safeguard SNAP Participant PII Semi-Structured Interview – SA Exemplars (Data Collection)	5	5	1	5	1.00	5.00	0	1	0	0.03	0.00	**5.00**
	Data/Program Analysts	**Conducting How States Safeguard SNAP Participant PII Web Survey (Data Collection)	53	53	1	53	0.33	17.67	0	1	0	0.03	0.00	**17.67**
		**Conducting How States Safeguard SNAP Participant PII Semi-Structured – SA Exemplars (Data Collection)	5	5	1	5	1.00	5.00	0	1	0	0.03	0.00	**5.00**
	State Government Subtotal		**159**	**159**	**1**	**408**	**0.21**	**86.44**	**0**	**0**	**330**	**0.04**	**14.01**	**100.45**
Total Burden (Private/Commercial Industry and State Government)			**169**	**164**	**2.65**	**434**	**0.22**	**93.59**	**5**	**72.40**	**362**	**0.04**	**15.17**	**108.76**

* denotes Recruiting and Reminders
** denotes Participating in Data Collection
*** denotes Post Follow-Up and Thank You

Estimated Time Per Response	0.14
Number of Respondents	169
Estimated Total Annual Responses	796
Estimated Number of Responses Per Respondent	4.71

[FR Doc. 2019–05080 Filed 3–18–19; 8:45 am]
BILLING CODE 3410–30–C

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Michigan Advisory Committee

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 Michigan Advisory Committee (Committee) the purpose of the meeting is to continue discussing details for a 2019 briefing on voting rights.

DATES: The meetings will take place on:

- Wednesday, March 27, 2019, 1:00 p.m.–2:30 p.m. EST
- Tuesday, April 16, 2019, 12:00 p.m.–1:30 p.m. EST

Public Call Information: Dial: 1–855–719–5012; Conference ID: 9486958.

FOR FURTHER INFORMATION CONTACT: Ana Victoria Fortes, DFO, at *afortes@usccr.gov* or 213–894–3437.

SUPPLEMENTARY INFORMATION: Members of the public can listen to the discussion. This meeting is available to the public through the above toll-free call-in number. 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 1–800–877–8339 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 Regional Programs Unit Office, U.S. Commission on Civil Rights, 230 S. Dearborn St., Suite 2120, Chicago, IL 60604. They may also be faxed to the Commission at (312) 353–8324, or emailed to Carolyn Allen at *callen@usccr.gov.* Persons who desire additional information may contact the Regional Programs Office at (312) 353–8311.

Records generated from this meeting may be inspected and reproduced at the Regional Programs 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, Michigan Advisory Committee link. Persons interested in the work of this Committee are directed to the Commission's website, *http://www.usccr.gov,* or may contact the Regional Programs Office at the above email or street address.

Agenda

I. Welcome and Roll Call
II. Approval of Minutes March 4, 2019 Meeting
III. Planning Discussion
IV. Next Steps
V. Public Comment
VI. Adjournment

Dated: March 13, 2019.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2019–05042 Filed 3–18–19; 8:45 am]
BILLING CODE P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the California Advisory Committee

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 (FACA) that a meeting of the California Advisory Committee (Committee) to the Commission will be held at 1:00 p.m. (Pacific Time) Friday, April 12, 2019. The purpose of the meeting is for the Committee to discuss project proposal examining Proposition 47.

DATES: The meeting will be held on Friday, April 12, 2019, at 1:00 p.m. PT.

Public Call Information: Dial: 877–260–1479, Conference ID: 6061851.

FOR FURTHER INFORMATION CONTACT: Ana Victoria Fortes at *afortes@usccr.gov* or (213) 894–3437

SUPPLEMENTARY INFORMATION: This meeting is available to the public through the following toll-free call-in number: 877–260–1479, conference ID number: 6061851. Any interested member of the public may call this number and listen to the meeting. Callers can expect to incur charges for calls they initiate over wireless lines, and 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 1–800–877–8339 and providing the Service with the conference call number and conference ID number.

Members of the public are entitled to make comments during the open period at the end of the meeting. Members of the public may also submit written comments; the comments must be received in the Regional Programs Unit within 30 days following the meeting. Written comments may be mailed to the Western Regional Office, U.S. Commission on Civil Rights, 300 North Los Angeles Street, Suite 2010, Los Angeles, CA 90012. They may be faxed to the Commission at (213) 894–0508, or emailed Ana Victoria Fortes at *afortes@usccr.gov.* Persons who desire additional information may contact the Regional Programs Unit at (213) 894–3437.

Records and documents discussed during the meeting will be available for public viewing prior to and after the meeting at *https://www.facadatabase.gov/FACA/FACAPublicViewCommitteeDetails?id=a10t0000001gzkUAAQ.* Please click on ''Committee Meetings'' tab. Records generated from this meeting may also be inspected and reproduced at the Regional Programs Unit, as they become available, both before and after the meeting. Persons interested in the work of this Committee are directed to the Commission's website, *https://www.usccr.gov,* or may contact the Regional Programs Unit at the above email or street address.

Agenda

I. Welcome
II. Discuss Prop 47 Project Proposal
  a. USCCR feedback
  b. Committee feedback
III. Public Comment
IV. Next Steps and Potential Meeting Date
V. Adjournment

Dated: March 13, 2019.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2019–05043 Filed 3–18–19; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

Economic Development Administration

Notice of Petitions by Firms for Determination of Eligibility To Apply for Trade Adjustment Assistance

AGENCY: Economic Development Administration, U.S. Department of Commerce.

ACTION: Notice and opportunity for public comment.

SUMMARY: The Economic Development Administration (EDA) has received petitions for certification of eligibility to apply for Trade Adjustment Assistance from the firms listed below. Accordingly, EDA has initiated investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each of the firms contributed importantly to the total or partial separation of the firms' workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

SUPPLEMENTARY INFORMATION:

LIST OF PETITIONS RECEIVED BY EDA FOR CERTIFICATION OF ELIGIBILITY TO APPLY FOR TRADE ADJUSTMENT ASSISTANCE

[02/28/2019 through 03/11/2019]

Firm name	Firm address	Date accepted for investigation	Product(s)
AMG Industries, LLC	200 Commerce Drive, Mount Vernon, OH 43050.	3/1/2019	The firm manufactures metal stampings, welded assemblies, and related components, including automotive exhaust assemblies and components.
Unique Manufacturing and Marketing, Inc.	5752 Lamar Street, Arvada, CO 80002.	3/1/2019	The firm manufactures surface-active washing and cleaning products, including pet care products.
M&W Aluminum Products, Inc	321 Wavel Street, Syracuse, NY 13206.	3/4/2019	The firm manufactures automotive racing parts.
Windham Millwork, Inc	4 Architectural Drive, Windham, ME 04062.	3/6/2019	The firm manufactures wooden cabinetry, countertops, moldings, frames, paneling, desks, and other wooden items.

Any party having a substantial interest in these proceedings may request a public hearing on the matter. A written request for a hearing must be submitted to the Trade Adjustment Assistance Division, Room 71030, Economic Development Administration, U.S. Department of Commerce, Washington, DC 20230, no later than ten (10) calendar days following publication of this notice. These petitions are received pursuant to section 251 of the Trade Act of 1974, as amended.

Please follow the requirements set forth in EDA's regulations at 13 CFR 315.9 for procedures to request a public hearing. The Catalog of Federal Domestic Assistance official number and title for the program under which these petitions are submitted is 11.313, Trade Adjustment Assistance for Firms.

Irette Patterson,

Program Analyst.

[FR Doc. 2019–05050 Filed 3–18–19; 8:45 am]

BILLING CODE 3510–WH–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–14–2019]

Foreign-Trade Zone (FTZ) 124—Gramercy, Louisiana; Notification of Proposed Production Activity; Offshore Energy Services, Inc. (Casing Pipe With Connectors), Broussard, Louisiana

The Port of South Louisiana, grantee of FTZ 124, submitted a notification of proposed production activity to the FTZ Board on behalf of Offshore Energy Services, Inc. (OES), located in Broussard, Louisiana. The notification conforming to the requirements of the regulations of the FTZ Board (15 CFR 400.22) was received on March 12, 2019.

The applicant indicates that it has submitted a separate application for subzone designation at the OES facility under FTZ 124. The facility will be used for the welding of connectors onto casing pipe. Pursuant to 15 CFR 400.14(b), FTZ activity would be limited to the specific foreign-status materials and components and specific finished product described in the submitted notification (as described below) and subsequently authorized by the FTZ Board.

Production under FTZ procedures could exempt OES from customs duty payments on the foreign-status components used in export production. On its domestic sales, for the foreign-status materials/components noted below, OES would be able to choose the duty rates during customs entry procedures that apply to API 5L line pipe with welded pin and box connections (duty-free). OES 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 components and materials sourced from abroad include API specification 5L line pipe, and welded pin and box threaded connections for use in oil and gas drilling operations (duty-free). The request indicates that certain materials/components are subject to special duties under Section 232 of the Trade Expansion Act of 1962 (Section 232), depending on the country of origin. The applicable Section 232 decisions require subject merchandise to be admitted to FTZs in privileged foreign status (19 CFR 146.41).

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 29, 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 14, 2019.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2019–05137 Filed 3–18–19; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[S–222–2018]

Approval of Subzone Status, Puerto Rico Steel Products Corporation, Coto Laurel, Puerto Rico

On December 14, 2018, the Executive Secretary of the Foreign-Trade Zones (FTZ) Board docketed an application submitted by CODEZOL, C.D., grantee of FTZ 163, requesting subzone status subject to the existing activation limit of FTZ 163, on behalf of Puerto Rico Steel Products Corporation, in Coto Laurel, Puerto Rico.

The application was processed in accordance with the FTZ Act and Regulations, including notice in the **Federal Register** inviting public comment (83 FR 65142–65143, December 19, 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 163L was approved on March 13, 2019, subject to the FTZ Act and the Board's regulations, including Section 400.13, and further subject to FTZ 163's 936.984-acre activation limit.

Dated: March 13, 2019.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2019–05147 Filed 3–18–19; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–13–2019]

Foreign-Trade Zone (FTZ) 70—Detroit, Michigan; Notification of Proposed Production Activity; Detroit Bikes LLC (Electric and Non-Electric Cycles), Detroit, Michigan

Greater Detroit Foreign-Trade Zone, Inc., grantee of FTZ 70, submitted a notification of proposed production activity to the FTZ Board on behalf of Detroit Bikes LLC (Detroit Bikes), located in Detroit, Michigan. The notification conforming to the requirements of the regulations of the FTZ Board (15 CFR 400.22) was received on March 11, 2019.

The Detroit Bikes facility is located within Site 76 of FTZ 70. The facility is used for production of bicycles, tricycles, and quadracycles. Pursuant to 15 CFR 400.14(b), FTZ activity would be limited to the specific foreign-status materials and 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 Detroit Bikes from customs duty payments on the foreign-status components used in export production. On its domestic sales, for the foreign-status materials/components noted below, Detroit Bikes would be able to choose the duty rates during customs entry procedures that apply to bicycles (including electric, children's, folding, and road racing), mountain bikes, tricycles, and quadracycles (duty rate ranges from duty-free to 11.0%). Detroit Bikes would be able to avoid duty on foreign-status components that become scrap/waste. Customs duties also could possibly be deferred or reduced on foreign-status production equipment.

The components and materials sourced from abroad include: Plastic water bottles; derailleur cables; handlebar tape (plastic, rubber, leather, or suede); bicycle tires; rim strips (natural or synthetic rubber); bicycle inner tubes; baskets (woven or steel wire); glass mirrors; bicycle chains; brake cables; carriers (steel or aluminum); non-electric bells; electric bike motors; lithium ion batteries; lighting (battery or generator powered); complete frames (valued over $600); front forks (for mountain, road, BMX, or children's bicycles); small parts for frame building; rims; spokes; hubs (quick release aluminum, two-speed, three-speed, more than three-speed, or made of steel or composites); multi-speed freewheel sprockets; single speed freewheels; caliper and cantilever brake levers; brakes (caliper and cantilever style, hub type, or disk and linear pull); saddles; pedals; cotterless cranks; click style shift levers; twist grip shifters; derailleurs; derailleur levers; handlebar stems; shifters for three-speed hubs; front and rear carriers and racks; fenders; handlebars; kickstands; rear suspension shocks; chain guards; chain tension adjustors; headsets; wide-angle reflectors; seat posts; chain tensioners; and, pre-cut sets of tubing for welding into frames (duty rate ranges from duty-free to 20.0%). The request indicates that certain materials/components are subject to special duties under Section 301 of the Trade Act of 1974 (Section 301), depending on the country of origin. The applicable Section 301 decisions require subject merchandise to be admitted to FTZs in privileged foreign status (19 CFR 146.41).

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 29, 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 13, 2019.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2019–05139 Filed 3–18–19; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–095]

Aluminum Wire Cable From China: Postponement of Preliminary Determination of Antidumping Duty Investigation

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

DATES: Applicable March 19, 2019.

FOR FURTHER INFORMATION CONTACT: Suzanne Rothman, 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) 482–3851.

SUPPLEMENTARY INFORMATION:

Background

On October 11, 2018, the Department of Commerce (Commerce) initiated a less-than-fair-value (LTFV) investigation of aluminum wire cable (AWC) from China.[1] 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 28, 2019.[2] The revised deadline for the preliminary determination is now April 9, 2019.

Postponement of Preliminary Determination

Section 733(b)(1)(A) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.205(b)(1) require Commerce to issue the preliminary determination in an AD investigation no later than 140 days after the date on which Commerce initiated the investigation. However, section 733(c)(1) of the Act permits Commerce to postpone the preliminary determination until no later than 190 days after the date on which Commerce initiated the investigation if: (A) The petitioner[3] makes a timely request for a postponement; or (B) Commerce concludes that the parties concerned are cooperating, that the investigation is extraordinarily complicated, and that additional time is necessary to make a preliminary determination. Under 19 CFR 351.205(e), the petitioner must submit a request for postponement 25 days or more before the scheduled date of the preliminary determination and must state the reasons for the request. Commerce will grant the request unless it finds compelling reasons to deny the request.[4]

The petitioners submitted a timely request on February 15, 2019, that we postpone the preliminary determination in this LTFV investigation.[5] The petitioners stated that a postponement is warranted to provide Commerce and all parties sufficient time to develop the record in this investigation, and the current April 9, 2019 deadline does not provide adequate time for Commerce to review questionnaires, receive responses, and follow up with supplemental questionnaires.

For the reasons stated above, and because there are no compelling reasons to deny the request, Commerce, in accordance with section 733(c)(1)(A) of the Act, is postponing the due date for the preliminary AD determination to no later than 190 days after the day on which the investigation was initiated. As a result of this postponement, the deadline for completion of the preliminary determination is now May 29, 2019. In accordance with section 735(a)(1) of the Act and 19 CFR 351.210(b)(1), the deadline for the final determination of this investigation will continue to be 75 days after the date of the preliminary determination, unless postponed at a later date.

This notice is issued and published pursuant to section 733(c)(2) of the Act and 19 CFR 351.205(f)(1).

Dated: March 14, 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.

[FR Doc. 2019–05146 Filed 3–18–19; 8:45 am]

BILLING CODE 3510–DS–P

[1] *See Aluminum Wire and Cable From the People's Republic of China: Initiation of Less-Than-Fair-Value Investigation,* 83 FR 52811 (October 18, 2018).

[2] *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.

[3] The petitioners are Encore Wire Corporation and Southwire Company, LLC.

[4] *See* 19 CFR 351.205(e).

[5] *See* Letter from the petitioners, ''Aluminum Wire and Cable from China: Petitioner's Request for Postponement of the Preliminary Determination,'' dated February 15, 2019.

DEPARTMENT OF COMMERCE

International Trade Administration

[A–428–846, A–201–849, A–570–093]

Refillable Stainless Steel Kegs From the Federal Republic of Germany, Mexico and the People's Republic of China: Postponement of Preliminary Determinations in the Less-Than-Fair-Value Investigations

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

DATES: Applicable March 19, 2019.

FOR FURTHER INFORMATION CONTACT: Thomas Schauer at (202) 482–0410, or Aimee Phelan at (202) 482–0697, AD/CVD Operations, Office I, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Background

On October 10, 2018, the Department of Commerce (Commerce) initiated less-than-fair-value (LTFV) investigations of imports of refillable stainless steel kegs from the Federal Republic of Germany, Mexico, and the People's Republic of China.[1] Commerce exercised its discretion to toll all deadlines affected by the closure of the Federal Government from December 22, 2018, through January 28, 2019. Accordingly, the revised deadline for the preliminary determinations in these investigations is April 8, 2019.[2]

Postponement of Preliminary Determinations

Section 733(b)(1)(A) of the Tariff Act of 1930, as amended (the Act), requires Commerce to issue the preliminary determination in a LTFV investigation within 140 days after the date on which Commerce initiated the investigation. However, section 733(c)(1) of the Act permits Commerce to postpone the preliminary determination until no later than 190 days after the date on which Commerce initiated the investigation if: (A) The petitioner[3] makes a timely request for a postponement; or (B) Commerce concludes that the parties concerned are cooperating, that the investigation is extraordinarily complicated, and that additional time is necessary to make a preliminary determination. Under 19 CFR 351.205(e), the petitioner must submit a request for postponement 25 days or more before the scheduled date of the preliminary determination and must state the reasons for the request. Commerce will grant the request unless it finds compelling reasons to deny the request.

On March 8, 2019, the petitioner submitted a timely request that Commerce postpone the preliminary determinations in these LTFV investigations.[4] The petitioner stated

[1] *See Refillable Stainless Steel Kegs From the People's Republic of China, the Federal Republic of Germany, and Mexico: Initiation of Less-Than-Fair-Value Investigations,* 83 FR 52195 (October 16, 2018) (*Initiation Notice*).

[2] *See* Memorandum, ''Deadlines Affected by the Shutdown of the Federal Government,'' dated January 28, 2019 (Tolling Memorandum). All deadlines in this segment of the proceeding have been extended by 40 days.

[3] The petitioner is the American Keg Company, LLC.

[4] *See* Letters from the petitioner, ''Refillable Stainless Steel Kegs from the People's Republic of China, the Federal Republic of Germany, and

Continued

that it requests postponement of the preliminary determinations of these investigations to allow Commerce and the parties to fully develop and review the record and relevant issues in anticipation of the preliminary determinations.[5]

For the reasons stated above, and because there are no compelling reasons to deny the request, Commerce, in accordance with section 733(c)(1)(A) of the Act, is postponing the deadline for the preliminary determinations by 50 days (*i.e.,* 190 days after the date on which these investigations were initiated plus 40 days for tolling). As a result, Commerce will issue its preliminary determinations no later than May 28, 2019. In accordance with section 735(a)(1) of the Act and 19 CFR 351.210(b)(1), the deadline for the final determinations of these investigations will continue to be 75 days after the date of publication of the preliminary determinations, unless postponed at a later date.

This notice is issued and published pursuant to section 733(c)(2) of the Act and 19 CFR 351.205(f)(1).

Dated: March 13, 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.

[FR Doc. 2019–05005 Filed 3–18–19; 8:45 am]

BILLING CODE 3510–DS–P

Mexico: Petitioner's Request to Extend Preliminary Determinations,'' dated March 8, 2019 (Requests for Postponement).

[5] *See* Requests for Postponement.

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–104, A–533–887, A–583–865, A–549–840]

Carbon and Alloy Steel Threaded Rod From India, Taiwan, Thailand, and the People's Republic of China: Initiation of Less-Than-Fair-Value Investigations

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

DATES: Applicable March 13, 2019.

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SUPPLEMENTARY INFORMATION:

The Petitions

On February 21, 2019, the U.S. Department of Commerce (Commerce) received antidumping duty (AD) petitions concerning imports of carbon and alloy steel threaded rod (steel threaded rod) from India, Taiwan, Thailand, and China.[1] The AD Petitions, as amended, were filed in proper form by Vulcan Threaded Products Inc. (the petitioner).[2] The AD Petitions, as amended, were accompanied by countervailing duty (CVD) petitions concerning imports of steel threaded rod from India and China.

On February 26, March 4, and March 6, 2019, Commerce requested supplemental information pertaining to certain aspects of the AD Petitions in separate supplemental questionnaires.[3] Responses to the supplemental questionnaires were filed on February 28, March 6, and March 7, 2019.[4]

In accordance with section 732(b) of the Tariff Act of 1930, as amended (the Act), the petitioner alleges that imports of steel threaded rod from India, Taiwan, Thailand, and China are being, or are likely to be, sold in the United States at less than fair value (LTFV) within the meaning of section 731 of the Act, and that such imports are materially injuring, or threatening material injury to, the domestic industry producing steel threaded rod in the United States. Consistent with section 732(b)(1) of the Act, the AD Petitions, as amended, are accompanied by information reasonably available to the petitioner supporting its allegations.

Commerce finds that the petitioner filed the AD Petitions, as amended, on behalf of the domestic industry, because the petitioner is an interested party, as defined in section 771(9)(C) of the Act. Commerce also finds that the petitioner demonstrated sufficient industry support with respect to the initiation of the requested AD investigations.[5]

Periods of Investigation

Because the AD Petitions, as amended, were filed on February 21, 2019, pursuant to 19 CFR 351.204(b)(1), the period of investigation (POI) for the India, Taiwan, and Thailand investigations is January 1, 2018, through December 31, 2018. Because China is a non-market economy (NME) country, pursuant to 19 CFR 351.204(b)(1), the POI for the China investigation is July 1, 2018, through December 31, 2018.

[1] *See* the Petitioner's Letter, ''Petitions for the Imposition of Antidumping and Countervailing Duties: Carbon and Alloy Steel Threaded Rod from the People's Republic of China, India, Taiwan, and Thailand,'' dated February 21, 2019 (the AD Petitions).

[2] *See* the Petitioner's Letter, ''Petitions for the Imposition of Antidumping and Countervailing Duties: Carbon and Alloy Steel Threaded Rod from the People's Republic of China, India, Taiwan, and Thailand: Clarification of Petitioner's Name,'' dated March 1, 2019.

[3] *See* Commerce Letters, ''Petitions for the Imposition of Antidumping and Countervailing Duties on Imports of Carbon and Alloy Steel Threaded Rod from the People's Republic of China, India, Taiwan, and Thailand: Supplemental Questions;'' ''Petition for the Imposition of Antidumping Duties on Imports of Carbon and Alloy Steel Threaded Rod from India: Supplemental Questions;'' ''Petition for the Imposition of Antidumping Duties on Imports of Carbon and Alloy Steel Threaded Rod from Taiwan: Supplemental Questions;'' ''Petition for the Imposition of Antidumping Duties on Imports of Carbon and Alloy Steel Threaded Rod from Thailand: Supplemental Questions;'' and ''Petition for the Imposition of Antidumping Duties on Imports of Carbon and Alloy Steel Threaded Rod from the People's Republic of China: Supplemental Questions.'' All of these documents are dated February 26, 2019. *See also* Commerce Letter, ''Petition for the Imposition of Antidumping Duties on Imports of Carbon and Alloy Steel Threaded Rod from Thailand: Second Supplemental Questions,'' dated March 4, 2019. *See also* Commerce's Letter, ''Petition for the Imposition of Antidumping Duties on Imports of Carbon and Alloy Steel Threaded Rod from Taiwan: Second Supplemental Questions,'' dated March 4, 2019; and Memorandum, ''Phone Call with Counsel to the Petitioner,'' dated March 6, 2019.

[4] *See* the Petitioner's Letters, ''Carbon and Alloy Steel Threaded Rod from India: Response to Questionnaire on Antidumping Petition'' (India AD Supplement); ''Carbon and Alloy Steel Threaded Rod from Taiwan: Response to Questionnaire on Antidumping Petition'' (Taiwan AD Supplement); ''Carbon and Alloy Steel Threaded Rod from Thailand: Response to Questionnaire on Antidumping Petition'' (Thailand AD Supplement); and ''Carbon and Alloy Steel Threaded Rod from the People's Republic of China: Response to Questionnaire on Antidumping Petition'' (China AD Supplement). All of these documents are dated February 28, 2019. *See also* the Petitioner's Letter, ''Carbon and Alloy Steel Threaded Rod from the People's Republic of China, India, Taiwan, and Thailand: Response to General Issues Questionnaire,'' dated February 28, 2019 (General Issues Supplement); *see also* the Petitioner's Letter, ''Petition for the Imposition of Antidumping Duties on Imports of Carbon and Alloy Steel Threaded Rod from Taiwan: Responses to Second Supplemental Questions,'' dated March 6, 2019 (Second Taiwan AD Supplement); the Petitioner's Letter, ''Petition for the Imposition of Antidumping Duties on Imports of Carbon and Alloy Steel Threaded Rod from Taiwan: Responses to Third Supplemental Questions,'' dated March 7, 2019 (Third Taiwan AD Supplement); *see also* the Petitioner's Letter, ''Petition for the Imposition of Antidumping Duties on Imports of Carbon and Alloy Steel Threaded Rod from Thailand: Responses to Second Supplemental Questions,'' dated March 6, 2019 (Second Thailand AD Supplement); *see also* ''Petition for the Imposition of Antidumping Duties on Imports of Carbon and Alloy Steel Threaded Rod from Thailand: Amended Calculations,'' dated March 7, 2019 (Third Thailand AD Supplement).

[5] *See* the AD Petitions at 2–3.

Scope of the Investigations

The product covered by these investigations is steel threaded rod from India, Taiwan, Thailand, and China. For a full description of the scope of these investigations, *see* the Appendix to this notice.

Scope Comments

During our review of the AD Petitions, Commerce issued questions to, and received responses from, the petitioner pertaining to the proposed scope to ensure that the scope language in the AD Petitions, as amended, would be an accurate reflection of the products for which the domestic industry is seeking relief.[6]

As discussed in the *Preamble* to Commerce's regulations, we are setting aside a period for interested parties to raise issues regarding product coverage (scope).[7] Commerce will consider all comments received from interested parties and, if necessary, will consult with interested parties prior to the issuance of the preliminary determinations. If scope comments include factual information,[8] all such factual information should be limited to public information. To facilitate preparation of its questionnaires, Commerce requests that all interested parties submit scope comments by 5:00 p.m. Eastern Time (ET) on April 2, 2019, which is 20 calendar days from the signature date of this notice. Any rebuttal comments, which may include factual information, must be filed by 5:00 p.m. ET on April 12, 2019, which is 10 calendar days from the initial comment deadline.[9]

Commerce requests that any factual information parties consider relevant to the scope of the investigations be submitted during this period. However, if a party subsequently finds that additional factual information pertaining to the scope of the investigations may be relevant, the party may contact Commerce and request permission to submit the additional information. All such submissions must be filed on the records of the concurrent AD and CVD investigations.

Filing Requirements

All submissions to Commerce must be filed electronically *via* Enforcement and Compliance's Antidumping Duty and Countervailing Duty Centralized Electronic Service System (ACCESS).[10] An electronically filed document must be received successfully in its entirety by the time and date it is due. Documents exempted from the electronic submission requirements must be filed manually (*i.e.,* in paper form) with Enforcement and Compliance's APO/Dockets Unit, Room 18022, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230, and stamped with the date and time of receipt by the applicable deadlines.

Comments on Product Characteristics

Commerce is providing interested parties an opportunity to comment on the appropriate physical characteristics of steel threaded rod to be reported in response to Commerce's AD questionnaires. This information will be used to identify the key physical characteristics of the subject merchandise in order to report the relevant factors of production (FOPs) accurately, as well as to develop appropriate product-comparison criteria.

Interested parties may provide any information or comments that they feel are relevant to the development of an accurate list of physical characteristics. Specifically, they may provide comments as to which characteristics are appropriate to use as: (1) General product characteristics, and (2) product comparison criteria. We note that it is not always appropriate to use all product characteristics as product comparison criteria. We base product comparison criteria on meaningful commercial differences among products. In other words, although there may be some physical product characteristics utilized by manufacturers to describe steel threaded rod, it may be that only a select few product characteristics take into account commercially meaningful physical characteristics. In addition, interested parties may comment on the order in which the physical characteristics should be used in matching products. Generally, Commerce attempts to list the most important physical characteristics first and the least important characteristics last.

In order to consider the suggestions of interested parties in developing and issuing the AD questionnaires, all product characteristics comments must be filed by 5:00 p.m. ET on April 2, 2019, which is 20 calendar days from the signature date of this notice.[11] Any rebuttal comments must be filed by 5:00 p.m. ET on April 12, 2019. All comments and submissions to Commerce must be filed electronically using ACCESS, as explained above, on the record of each of the AD investigations.

Determination of Industry Support for the AD Petitions

Section 732(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 732(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (i) At least 25 percent of the total production of the domestic like product; and (ii) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, section 732(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, Commerce shall: (i) Poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A); or (ii) determine industry support using a statistically valid sampling method to poll the ''industry.''

Section 771(4)(A) of the Act defines the ''industry'' as the producers as a whole of a domestic like product. Thus, to determine whether a petition has the requisite industry support, the statute directs Commerce to look to producers and workers who produce the domestic like product. The International Trade Commission (ITC), which is responsible for determining whether ''the domestic industry'' has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both Commerce and the ITC must apply the same statutory definition regarding the domestic like product,[12] they do so for different purposes and pursuant to a separate and distinct authority. In addition, Commerce's determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such

[6] *See* General Issues Supplemental at 3–6.

[7] *See Antidumping Duties; Countervailing Duties, Final Rule,* 62 FR 27296, 27323 (May 19, 1997).

[8] *See* 19 CFR 351.102(b)(21) (defining ''factual information'').

[9] *See* 19 CFR 351.303(b).

[10] *See Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures,* 76 FR 39263 (July 6, 2011); *see also Enforcement and Compliance; Change of Electronic Filing System Name,* 79 FR 69046 (November 20, 2014) for details of Commerce's electronic filing requirements, effective August 5, 2011. Information on help using ACCESS can be found at *https://access.trade.gov/help.aspx* and a handbook can be found at *https://access.trade.gov/help/Handbook%20on%20Electronic%20Filling%20Procedures.pdf.*

[11] *See* 19 CFR 351.303(b).

[12] *See* section 771(10) of the Act.

differences do not render the decision of either agency contrary to law.[13]

Section 771(10) of the Act defines the domestic like product as ''a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title.'' Thus, the reference point from which the domestic like product analysis begins is ''the article subject to an investigation'' (*i.e.,* the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition).

With regard to the domestic like product, the petitioner does not offer a definition of the domestic like product distinct from the scope of the AD Petitions, as amended.[14] Based on our analysis of the information submitted on the record, we have determined that steel threaded rod, as defined in the scope, constitutes a single domestic like product, and we have analyzed industry support in terms of that domestic like product.[15]

In determining whether the petitioner has standing under section 732(c)(4)(A) of the Act, we considered the industry support data contained in the AD Petitions, as amended, with reference to the domestic like product as defined in the ''Scope of the Investigations,'' in the Appendix to this notice. To establish industry support, the petitioner provided its own production of the domestic like product in 2018, as well as the 2018 production of Bay Standard Manufacturing Inc. (Bay Standard), a U.S. producer of steel threaded rod that supports the AD Petitions, as amended.[16] The petitioner compared the production of the supporters of the AD Petitions, as amended, to the estimated total production of the domestic like product for the entire domestic industry.[17] We relied on data provided by the petitioner and Bay Standard for purposes of measuring industry support.[18]

Our review of the data provided in the AD Petitions, as amended, the General Issues Supplement, the Letter of Support, and other information readily available to Commerce indicates that the petitioner has established industry support for the AD Petitions, as amended.[19] First, the AD Petitions, as amended, established support from domestic producers (or workers) accounting for more than 50 percent of the total production of the domestic like product and, as such, Commerce is not required to take further action in order to evaluate industry support (*e.g.,* polling).[20] Second, the domestic producers (or workers) have met the statutory criteria for industry support under section 732(c)(4)(A)(i) of the Act, because the domestic producers (or workers) who support the AD Petitions, as amended, account for at least 25 percent of the total production of the domestic like product.[21] Finally, the domestic producers (or workers) have met the statutory criteria for industry support under section 732(c)(4)(A)(ii) of the Act, because the domestic producers (or workers) who support the AD Petitions, as amended, account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the AD Petitions, as amended.[22] Accordingly, Commerce determines that the AD Petitions, as amended, were filed on behalf of the domestic industry within the meaning of section 732(b)(1) of the Act.

Commerce finds that the petitioner filed the AD Petitions, as amended, on behalf of the domestic industry, because it is an interested party, as defined in section 771(9)(C) of the Act, and it has demonstrated sufficient industry support with respect to the AD investigations that it is requesting that Commerce initiate.[23]

Allegations and Evidence of Material Injury and Causation

The petitioner alleged that the U.S. industry producing the domestic like product is being materially injured, or is threatened with material injury, by reason of the imports of the subject merchandise sold at less than normal value (NV). In addition, the petitioner alleges that subject imports exceed the negligibility threshold provided for under section 771(24)(A) of the Act.[24] The petitioner contends that the industry's injured condition is illustrated by a significant and increasing volume of subject imports; reduced market share; underselling and price suppression; decline in the domestic industry's capacity utilization; the domestic industry's lagging production and shipments; decline in the domestic industry's financial performance; and lost sales and revenues.[25] We have assessed the allegations and supporting evidence regarding material injury, threat of material injury, causation, as well as cumulation, and we have determined that these allegations are properly supported by adequate evidence, and meet the statutory requirements for initiation.[26]

Allegations of Sales at LTFV

The following is a description of the allegation of sales at LTFV upon which Commerce based its decision to initiate AD investigations of imports of steel threaded rod from India, Taiwan,

[13] *See USEC, Inc.* v. *United States,* 132 F. Supp. 2d 1, 8 (CIT 2001) (citing *Algoma Steel Corp., Ltd.* v. *United States,* 688 F. Supp. 639, 644 (CIT 1988), *aff'd* 865 F.2d 240 (Fed. Cir. 1989)).

[14] *See* Volume I of the AD Petitions at 8–12.

[15] For a discussion of the domestic like product analysis as applied to these cases and information regarding industry support, *see* Antidumping Duty Investigation Initiation Checklist: Carbon and Alloy Steel Threaded Rod from the People's Republic of China (China AD Initiation Checklist), at Attachment II, Analysis of Industry Support for the Antidumping and Countervailing Duty Petitions Covering Carbon and Alloy Steel Threaded Rod from the People's Republic of China, India, Taiwan, and Thailand (Attachment II); *see also* Antidumping Duty Investigation Initiation Checklist: Carbon and Alloy Steel Threaded Rod from India (India AD Initiation Checklist), at Attachment II; *see also* Antidumping Duty Investigation Initiation Checklist: Carbon and Alloy Steel Threaded Rod from Taiwan (Taiwan AD Initiation Checklist), at Attachment II; *see also* Antidumping Duty Investigation Initiation Checklist: Carbon and Alloy Steel Threaded Rod from Thailand (Thailand AD Initiation Checklist), at Attachment II. These checklists are dated concurrently with, and hereby adopted by, this notice and on file electronically *via* ACCESS. Access to documents filed *via* ACCESS is also available in the Central Records Unit, Room B8024 of the main Department of Commerce building.

[16] *See* Volume I of the Petitions, at Exhibit I–2; *see also* Letter from Bay Standard, ''Carbon and Alloy Steel Threaded Rod from the People's Republic of China, India, Taiwan, and Thailand: Support for the Petitions,'' dated February 25, 2019 (Letter of Support), at Attachment I.

[17] *See* General Issues Supplement, at 6 and Exhibits 3 and 5.

[18] *Id.* For further discussion, *see* China AD Initiation Checklist at Attachment II; India AD Initiation Checklist at Attachment II; Taiwan AD Initiation Checklist at Attachment II; and Thailand AD Initiation Checklist, at Attachment II.

[19] *See* China AD Initiation Checklist, at Attachment II; India AD Initiation Checklist, at Attachment II; Taiwan AD Initiation Checklist, at Attachment II; and Thailand AD Initiation Checklist, at Attachment II.

[20] *See* section 732(c)(4)(D) of the Act; *see also* China AD Initiation Checklist, at Attachment II; India AD Initiation Checklist, at Attachment II; Taiwan AD Initiation Checklist, at Attachment II; and Thailand AD Initiation Checklist, at Attachment II.

[21] *See* China AD Initiation Checklist, at Attachment II; India AD Initiation Checklist, at Attachment II; Taiwan AD Initiation Checklist, at Attachment II; and Thailand AD Initiation Checklist, at Attachment II.

[22] *Id.*

[23] *Id.*

[24] *See* Volume I of the Petitions, at 18 and Exhibit I–14.

[25] *Id.* at 15–35 and Exhibits I–3, I–4, I–10, I–11, I–13, I–14 and I–16 through I–20.

[26] *See* China AD Initiation Checklist, at Attachment III, Analysis of Allegations and Evidence of Material Injury and Causation for the Antidumping and Countervailing Duty Petitions Covering Carbon and Alloy Steel Threaded Rod from the People's Republic of China, India, Taiwan, and Thailand (Attachment III); *see also* India AD Initiation Checklist, at Attachment III; Taiwan AD Initiation Checklist, at Attachment III; and Thailand AD Initiation Checklist, at Attachment III.

Thailand, and China. The sources of data for the deductions and adjustments relating to U.S. price and normal value (NV) are discussed in greater detail in the AD Initiation Checklist for each country.

Export Price

For India, Thailand, and China, the petitioner based the U.S. price on export price (EP) using average unit values (AUVs) of publicly available import data.[27] For Taiwan, the petitioner based U.S. price on pricing information for steel threaded rod produced in, and exported from, Taiwan and offered for sale in the United States.[28] Where applicable, the petitioner made deductions from U.S. price for movement and other expenses, consistent with the terms of sale.[29]

Normal Value

For India, the petitioner based NV on home market prices obtained through market research for steel threaded rod produced in and sold, or offered for sale, in India within the POI.

For Taiwan and Thailand, the petitioner was unable to obtain information relating to the prices charged for steel threaded rod produced and sold in the respective home markets or third country prices; accordingly, the petitioner based NV on constructed value (CV).[30] For further discussion of CV, *see* the section ''Normal Value Based on Constructed Value'' below.[31]

With respect to China, Commerce considers China to be an NME country.[32] In accordance with section 771(18)(C)(i) of the Act, the presumption of NME status remains in effect until revoked by Commerce. Therefore, we continue to treat China as an NME for purposes of the initiation of this investigation. Accordingly, NV in China is appropriately based on FOPs valued in a surrogate market economy country, in accordance with section 773(c) of the Act.[33]

The petitioner claims that Mexico is an appropriate surrogate country for China, because it is a market economy country that is at a level of economic development comparable to that of China, it is a significant producer of comparable merchandise, and public information from Mexico is available to value all material input factors.[34] Based on the information provided by the petitioner, we determine that it is appropriate to use Mexico as a surrogate country for initiation purposes.

Interested parties will have the opportunity to submit comments regarding surrogate country selection and, pursuant to 19 CFR 351.301(c)(3)(i), will be provided an opportunity to submit publicly available information to value FOPs within 30 days before the scheduled date of the preliminary determination.

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Factors of Production

Because information regarding the volume of inputs consumed by the Chinese producers/exporters is not available, the petitioner relied on its own production experience as an estimate of Chinese manufacturers' FOPs.[35] The petitioner valued the estimated FOPs using surrogate values from Mexico and used the average POI exchange rate to convert the data to U.S. dollars.[36]

Normal Value Based on Constructed Value

As noted above, the petitioner was unable to obtain information relating to the prices charged for steel threaded rod produced in Taiwan and Thailand, or third country prices; accordingly, the petitioner based NV on CV.[37] Pursuant to section 773(e) of the Act, CV consists of the cost of manufacturing (COM), selling, general, and administrative (SG&A) expenses, financial expenses, packing expenses, and profit. For Taiwan and Thailand, the petitioner calculated the COM based on the input factors of production and its own usage rates. The input factors of production were valued using publicly available data on costs specific to Taiwan and Thailand, during the proposed POI.[38] Specifically, the prices for raw materials, reclaimed steel scrap, and packing inputs were valued using publicly available import and domestic price data for Taiwan and Thailand.[39] Labor and energy costs were valued using publicly available sources for Taiwan and Thailand.[40] The petitioner calculated factory overhead, SG&A expenses, financial expenses, and profit for Taiwan and Thailand based on the ratios found in the experience of a producer of identical or comparable merchandise from each of these countries.[41]

Fair Value Comparisons

Based on the data provided by the AD Petitions, as amended, there is reason to believe that imports of steel threaded rod from India, Taiwan, Thailand, and China are being, or are likely to be, sold in the United States at LTFV. Based on comparisons of EP to NV in accordance with sections 772 and 773 of the Act, the estimated dumping margins for steel threaded rod for each of the countries covered by this initiation are as follows: (1) India—25.43 and 28.34 percent;[42] (2) Taiwan—32.26 percent;[43] (3) Thailand—20.83 percent;[44] and (4) China—57.36 and 59.45 percent.[45]

Initiation of LTFV Investigations

Based upon the examination of the AD Petitions, as amended, and supplemental responses, we find that the AD Petitions, as amended, meet the requirements of section 732 of the Act. Therefore, we are initiating AD investigations to determine whether imports of steel threaded rod from India, Taiwan, Thailand, and China are being, or are likely to be, sold in the United States at LTFV. In accordance with section 733(b)(1)(A) of the Act and 19 CFR 351.205(b)(1), unless postponed, we will make our preliminary determinations no later than 140 days after the date of this initiation.

[27] *See* India AD Initiation Checklist, China AD Initiation Checklist; Thailand AD Initiation Checklist.

[28] *See* Taiwan AD Initiation Checklist.

[29] *See* India AD Initiation Checklist, China AD Initiation Checklist; Taiwan AD Initiation Checklist; and Thailand AD Initiation Checklist

[30] *See* Taiwan AD Initiation Checklist and Thailand AD Initiation Checklist.

[31] In accordance with section 505(a) of the Trade Preferences Extension Act of 2015, amending section 773(b)(2) of the Act, for this investigation, Commerce will request information necessary to calculate the CV and cost of production (COP) to determine whether there are reasonable grounds to believe or suspect that sales of the foreign like product have been made at prices that represent less than the COP of the product. Commerce no longer requires a COP allegation to conduct this analysis.

[32] *See Antidumping Duty Investigation of Certain Aluminum Foil from the People's Republic of China: Affirmative Preliminary Determination of Sales at Less-Than-Fair Value and Postponement of Final Determination,* 82 FR 50858, 50861 (November 2, 2017), and accompanying decision memorandum, *China's Status as a Non-Market Economy,* unchanged in *Certain Aluminum Foil from the People's Republic of China: Final Determination of Sales at Less Than Fair Value,* 83 FR 9282 (March 5, 2018).

[33] *See* China AD Initiation Checklist.

[34] *See* Volume II of the Petition at 2–4.

[35] *See* China AD Initiation Checklist.

[36] *Id.*

[37] *See* Taiwan AD Initiation Checklist and Thailand AD Initiation Checklist.

[38] *Id.*

[39] *Id.*

[40] *Id.*

[41] *Id.*

[42] *See* India AD Initiation Checklist.

[43] *See* Taiwan AD Initiation Checklist.

[44] *See* Thailand AD Initiation Checklist.

[45] *See* China AD Initiation Checklist.

Respondent Selection

The petitioner named 32 companies in India,[46] 25 companies in Taiwan,[47] and five companies in Thailand,[48] as producers/exporters of steel threaded rod. Following standard practice in AD investigations involving market economy countries, in the event Commerce determines that the number of companies is large and it cannot individually examine each company based upon Commerce's resources, where appropriate, Commerce intends to select respondents in India, Taiwan, and Thailand based on U.S. Customs and Border Protection (CBP) data for U.S. imports under the appropriate Harmonized Tariff Schedule of the United States (HTSUS) numbers listed with the scope in the Appendix, below.[49]

The petitioner named 446 producers/exporters of steel threaded rod in China.[50] In AD investigations involving NME countries, Commerce selects respondents based on quantity and value (Q&V) questionnaires in cases where it has determined that the number of companies is large and it cannot individually examine each company based upon its resources. After considering the large number of producers and exporters identified in the China AD Petition, and considering the resources that must be used by Commerce to mail Q&V questionnaires to all of these companies, Commerce has determined that we do not have sufficient administrative resources to mail Q&V questionnaires to all 446 identified producers and exporters. Therefore, Commerce has determined to limit the number of Q&V questionnaires it will send out to exporters and producers based on CBP data for imports during the POI under the appropriate HTSUS numbers listed with the scope in the Appendix, below. Accordingly, Commerce will send Q&V questionnaires to the largest producers and exporters that are identified in the CBP data for which there is address information on the record.

On March 11, 2019, Commerce released CBP data on imports of steel threaded rod from India, Taiwan, Thailand, and China under APO to all parties with access to information protected by APO and indicated that interested parties wishing to comment on the CBP data must do so within three business days of the publication date of the notice of initiation of these investigations.[51] We further stated that we will not accept rebuttal comments.

In addition, Commerce will post the Q&V questionnaire along with filing instructions on the Enforcement and Compliance website at *http://www.trade.gov/enforcement/news.asp.* In accordance with our standard practice for respondent selection in AD cases involving NME countries, we intend to base respondent selection on the responses to the Q&V questionnaire that we receive.

Producers/exporters of steel threaded rod from China that do not receive Q&V questionnaires by mail may still submit a response to the Q&V questionnaire and can obtain a copy of the Q&V questionnaire from Enforcement & Compliance's website. The Q&V response must be submitted by the relevant Chinese exporters/producers no later than 5:00 p.m. ET on March 27, 2019. All Q&V responses must be filed electronically *via* ACCESS.

Separate Rates

In order to obtain separate-rate status in an NME investigation, exporters and producers must submit a separate-rate application.[52] The specific requirements for submitting a separate-rate application in the China investigation are outlined in detail in the application itself, which is available on Commerce's website at *http://enforcement.trade.gov/nme/nme-sep-rate.html.* The separate-rate application will be due 30 days after publication of this initiation notice.[53] Exporters and producers who submit a separate-rate application and are selected as mandatory respondents will be eligible for consideration for separate-rate status only if they respond to all parts of Commerce's AD questionnaire as mandatory respondents. Commerce requires that companies from China submit a response to both the Q&V questionnaire and the separate-rate application by the respective deadlines in order to receive consideration for separate-rate status. Companies not filing a timely Q&V response will not receive separate-rate consideration.

Use of Combination Rates

Commerce will calculate combination rates for certain respondents that are eligible for a separate rate in an NME investigation. The Separate Rates and Combination Rates Bulletin states:

> {w}hile continuing the practice of assigning separate rates only to exporters, all separate rates that the Department will now assign in its NME Investigation will be specific to those producers that supplied the exporter during the period of investigation. Note, however, that one rate is calculated for the exporter and all of the producers which supplied subject merchandise to it during the period of investigation. This practice applies both to mandatory respondents receiving an individually calculated separate rate as well as the pool of non-investigated firms receiving the weighted-average of the individually calculated rates. This practice is referred to as the application of ''combination rates'' because such rates apply to specific combinations of exporters and one or more producers. The cash-deposit rate assigned to an exporter will apply only to merchandise both exported by the firm in question and produced by a firm that supplied the exporter during the period of investigation.[54]

Distribution of Copies of the AD Petitions

In accordance with section 732(b)(3)(A) of the Act and 19 CFR 351.202(f), copies of the public version of the AD Petitions, as amended, have been provided to the governments of India, Taiwan, Thailand, and China *via* ACCESS. To the extent practicable, we will attempt to provide a copy of the public version of the AD Petitions, as amended, to each exporter named in the AD Petitions, as amended, as provided under 19 CFR 351.203(c)(2).

ITC Notification

We will notify the ITC of our initiation, as required by section 732(d) of the Act.

Preliminary Determination by the ITC

The ITC will preliminarily determine, within 45 days after the date on which the AD Petitions, as amended, were filed, whether there is a reasonable indication that imports of steel threaded rod from India, Taiwan, Thailand, and/or China are materially injuring, or

[46] *See* Volume I of the Petitions, at Exhibit I–13.

[47] *Id.*

[48] *Id.*

[49] *See, e.g., Polyester Textured Yarn from India and the People's Republic of China: Initiation of Less-Than-Fair-Value Investigations,* 83 FR 58223, 58227 (November 19, 2018).

[50] *See* Volume I of the Petitions, at Exhibit I–13.

[51] *See* Memoranda, ''Carbon and Alloy Steel Threaded Rod from India: U.S. Customs and Border Protection Data for Respondent Selection Purposes;'' ''Carbon and Alloy Steel Threaded Rod from Thailand: U.S. Customs and Border Protection Data for Respondent Selection Purposes;'' ''Carbon and Alloy Steel Threaded Rod from Taiwan: U.S. Customs and Border Protection Data for Respondent Selection Purposes;'' and ''Carbon and Alloy Steel Threaded Rod from the People's Republic of China: U.S. Customs and Border Protection Data for Respondent Selection Purposes,'' dated March 11, 2019.

[52] *See* Policy Bulletin 05.1: Separate-Rates Practice and Application of Combination Rates in Antidumping Investigation involving Non-Market Economy Countries (April 5, 2005), available at *http://enforcement.trade.gov/policy/bull05-1.pdf* (Policy Bulletin 05.1).

[53] Although in past investigations this deadline was 60 days, consistent with 19 CFR 351.301(a), which states that ''the Secretary may request any person to submit factual information at any time during a proceeding,'' this deadline is now 30 days.

[54] *See* Policy Bulletin 05.1 at 6 (emphasis added).

threatening material injury to, a U.S. industry.[55] A negative ITC determination for any country will result in the investigation being terminated with respect to that country.[56] Otherwise, the investigations will proceed according to statutory and regulatory time limits.

Submission of Factual Information

Factual information is defined in 19 CFR 351.102(b)(21) as: (i) Evidence submitted in response to questionnaires; (ii) evidence submitted in support of allegations; (iii) publicly available information to value factors under 19 CFR 351.408(c) or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2); (iv) evidence placed on the record by Commerce; and (v) evidence other than factual information described in (i)–(iv). Section 351.301(b) of Commerce's regulations requires any party, when submitting factual information, to specify under which subsection of 19 CFR 351.102(b)(21) the information is being submitted [57] and, if the information is submitted to rebut, clarify, or correct factual information already on the record, to provide an explanation identifying the information already on the record that the factual information seeks to rebut, clarify, or correct.[58] Time limits for the submission of factual information are addressed in 19 CFR 351.301, which provides specific time limits based on the type of factual information being submitted. Interested parties should review the regulations prior to submitting factual information in these investigations.

Particular Market Situation Allegation

Section 504 of the Trade Preferences Extension Act of 2015 amended the Act by adding the concept of particular market situation (PMS) for purposes of CV under section 773(e) of the Act.[59] Section 773(e) of the Act states that ''if a particular market situation exists such that the cost of materials and fabrication or other processing of any kind does not accurately reflect the cost of production in the ordinary course of trade, the administering authority may use another calculation methodology under this subtitle or any other calculation methodology.'' When an interested party submits a PMS allegation pursuant to section 773(e) of the Act, Commerce will respond to such a submission consistent with 19 CFR 351.301(c)(2)(v). If Commerce finds that a PMS exists under section 773(e) of the Act, then it will modify its dumping calculations appropriately.

Neither section 773(e) of the Act nor 19 CFR 351.301(c)(2)(v) set a deadline for the submission of PMS allegations and supporting factual information. However, in order to administer section 773(e) of the Act, Commerce must receive PMS allegations and supporting factual information with enough time to consider the submission. Thus, should an interested party wish to submit a PMS allegation and supporting new factual information pursuant to section 773(e) of the Act, it must do so no later than 20 days after submission of a respondent's initial section D questionnaire response.

Extensions of Time Limits

Parties may request an extension of time limits before the expiration of a time limit established under 19 CFR 351.301, or as otherwise specified by the Secretary. In general, an extension request will be considered untimely if it is filed after the expiration of the time limit established under 19 CFR 351.301. For submissions that are due from multiple parties simultaneously, an extension request will be considered untimely if it is filed after 10:00 a.m. ET on the due date. Under certain circumstances, we may elect to specify a different time limit by which extension requests will be considered untimely for submissions which are due from multiple parties simultaneously. In such a case, we will inform parties in a letter or memorandum of the deadline (including a specified time) by which extension requests must be filed to be considered timely. An extension request must be made in a separate, stand-alone submission; under limited circumstances we will grant untimely-filed requests for the extension of time limits. Parties should review *Extension of Time Limits; Final Rule,* 78 FR 57790 (September 20, 2013), available at *http://www.gpo.gov/fdsys/pkg/FR-2013-09-20/html/2013-22853.htm,* prior to submitting factual information in these investigations.

Certification Requirements

Any party submitting factual information in an AD or CVD proceeding must certify to the accuracy and completeness of that information.[60] Parties must use the certification formats provided in 19 CFR 351.303(g).[61] Commerce intends to reject factual submissions if the submitting party does not comply with the applicable certification requirements.

Notification to Interested Parties

Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305. On January 22, 2008, Commerce published *Antidumping and Countervailing Duty Proceedings: Documents Submission Procedures; APO Procedures,* 73 FR 3634 (January 22, 2008). Parties wishing to participate in these investigations should ensure that they meet the requirements of these procedures (*e.g.,* the filing of letters of appearance as discussed at 19 CFR 351.103(d)).

This notice is issued and published pursuant to sections 732(c)(2) and 777(i) of the Act, and 19 CFR 351.203(c).

Dated: March 13, 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

Scope of the Investigations

The merchandise covered by the scope of these investigations is carbon and alloy steel threaded rod. Steel threaded rod is certain threaded rod, bar, or studs, of carbon or alloy steel, having a solid, circular cross section of any diameter, in any straight length. Steel threaded rod is normally drawn, cold-rolled, threaded, and straightened, or it may be hot-rolled. In addition, the steel threaded rod, bar, or studs subject to these investigations are non-headed and threaded along greater than 25 percent of their total actual length. A variety of finishes or coatings, such as plain oil finish as a temporary rust protectant, zinc coating (*i.e.,* galvanized, whether by electroplating or hot-dipping), paint, and other similar finishes and coatings, may be applied to the merchandise.

Steel threaded rod is normally produced to American Society for Testing and Materials (ASTM) specifications ASTM A36, ASTM A193 B7/B7m, ASTM A193 B16, ASTM A307, ASTM A329 L7/L7M, ASTM A320 L43, ASTM A354 BC and BD, ASTM A449, ASTM F1554–36, ASTM F1554–55, ASTM F1554 Grade 105, American Society of Mechanical Engineers (ASME) specification ASME B18.31.3, and American Petroleum Institute (API) specification API 20E. All steel threaded rod meeting the physical description set forth above is covered by the scope of these investigations, whether or not produced according to a particular standard.

Subject merchandise includes material matching the above description that has been

[55] *See* section 733(a) of the Act.

[56] *Id.*

[57] *See* 19 CFR 351.301(b).

[58] *See* 19 CFR 351.301(b)(2).

[59] *See* Trade Preferences Extension Act of 2015, Public Law 114–27, 129 Stat. 362 (2015).

[60] *See* section 782(b) of the Act.

[61] *See also Certification of Factual Information to Import Administration During Antidumping and Countervailing Duty Proceedings,* 78 FR 42678 (July 17, 2013) (*Final Rule*). Answers to frequently asked questions regarding the *Final Rule* are available at *http://enforcement.trade.gov/tlei/notices/factual_info_final_rule_FAQ_07172013.pdf.*

finished, assembled, or packaged in a third country, including by cutting, chamfering, coating, or painting the threaded rod, by attaching the threaded rod to, or packaging it with, another product, or any other finishing, assembly, or packaging operation that would not otherwise remove the merchandise from the scope of the investigations if performed in the country of manufacture of the threaded rod.

Carbon and alloy steel threaded rod are also included in the scope of these investigations whether or not imported attached to, or in conjunction with, other parts and accessories such as nuts and washers. If carbon and alloy steel threaded rod are imported attached to, or in conjunction with, such non-subject merchandise, only the threaded rod is included in the scope.

Excluded from the scope of these investigations are: (1) Threaded rod, bar, or studs which are threaded only on one or both ends and the threading covers 25 percent or less of the total actual length; and (2) stainless steel threaded rod, defined as steel threaded rod containing, by weight, 1.2 percent or less of carbon and 10.5 percent or more of chromium, with our without other elements.

Excluded from the scope of the antidumping investigation on steel threaded rod from the People's Republic of China is any merchandise covered by the existing antidumping order on Certain Steel Threaded Rod from the People's Republic of China. *See Certain Steel Threaded Rod from the People's Republic of China: Notice of Antidumping Duty Order,* 74 FR 17154 (April 14, 2009).

Steel threaded rod is currently classifiable under subheadings 7318.15.5051, 7318.15.5056, and 7318.15.5090 of the Harmonized Tariff Schedule of the United States (HTSUS). Subject merchandise may also enter under subheading 7318.15.2095 and 7318.19.0000 of the HTSUS. The HTSUS subheadings are provided for convenience and U.S. Customs purposes only. The written description of the scope is dispositive.

[FR Doc. 2019–05136 Filed 3–18–19; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[C–533–888, C–570–105]

Carbon and Alloy Steel Threaded Rod From India and the People's Republic of China: Initiation of Countervailing Duty Investigations

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

DATES: Applicable March 13, 2019.

FOR FURTHER INFORMATION CONTACT: Ryan Mullen at (202) 482–5260 (India) and Thomas Schauer at (202) 482–0410 (People's Republic of China (China)), AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

The Petitions

On February 21, 2019, the U.S. Department of Commerce (Commerce) received countervailing duty (CVD) petitions concerning imports of carbon and alloy steel threaded rod (steel threaded rod) from India and China, filed in proper form on behalf of Vulcan Threaded Products Inc. (the petitioner), a domestic producer of steel threaded rod.[1] The CVD Petitions were accompanied by antidumping duty (AD) petitions concerning imports of steel threaded rod from India, China, Taiwan, and Thailand.

During the period February 25 and 26, 2019, Commerce requested supplemental information pertaining to certain aspects of the CVD Petitions in separate supplemental questionnaires.[2] The petitioner filed responses to the supplemental questionnaires between February 28 and March 1, 2019.[3]

In accordance with section 702(b)(1) of the Tariff Act of 1930, as amended (the Act), the petitioner alleges that the Governments of China and India (GOC, and GOI, respectively) are providing countervailable subsidies, within the meaning of sections 701 and 771(5) of the Act, to producers of steel threaded rod in China and India and that imports of such products are materially injuring, or threatening material injury to, the domestic steel threaded rod industry in the United States. Consistent with section 702(b)(1) of the Act and 19 CFR 351.202(b), for those alleged programs on which we are initiating CVD investigations, the CVD Petitions are accompanied by information reasonably available to the petitioner supporting their allegations.

Commerce finds that the petitioner filed the CVD Petitions on behalf of the domestic industry, because the petitioner is an interested party, as defined in section 771(9)(E) of the Act. Commerce also finds that the petitioner demonstrated sufficient industry support necessary for the initiation of the requested CVD investigations.[4]

Period of Investigations

Because the CVD Petitions were filed on February 21, 2019, the period of investigation is January 1, 2018, through December 31, 2018.

Scope of the Investigations

The product covered by these investigations is steel threaded rod from China and India. For a full description of the scope of these investigations, *see* the Appendix to this notice.

Comments on the Scope of the Investigations

During our review of the CVD Petitions, Commerce issued questions to, and received responses from, the petitioner pertaining to the proposed scope to ensure that the scope language in the CVD Petitions would be an accurate reflection of the products for which the domestic industry is seeking relief.[5]

As discussed in the *Preamble* to Commerce's regulations, we are setting

[1] *See* the petitioner's letter, ''Petitions for the Imposition of Antidumping and Countervailing Duties: Carbon and Alloy Steel Threaded Rod from the People's Republic of China, India, Taiwan, and Thailand,'' dated February 21, 2019 (the Petitions). *See also* the petitioner's letter, ''Petitions for the Imposition of Antidumping and Countervailing Duties: Carbon and Alloy Steel Threaded Rod from the People's Republic of China, India, Taiwan, and Thailand: Clarification of Petitioner Name,'' dated March 1, 2019.

[2] *See* Commerce's Letter, ''Petition for the Imposition of Countervailing Duties on Imports of Carbon and Alloy Steel Threaded Rod from the People's Republic of China: Supplemental Questions,'' dated February 25, 2019, and Letters, ''Petitions for the Imposition of Antidumping and Countervailing Duties on Imports of Carbon and Alloy Steel Threaded Rod from the People's Republic of China, India, Taiwan, and Thailand: Supplemental Questions,'' (General Issues Supplemental), ''Petition for the Imposition of Countervailing Duties on Imports of Carbon and Alloy Steel Threaded Rod from India: Supplemental Questions,'' ''Petition for the Imposition of Antidumping Duties on Imports of Carbon and Alloy Steel Threaded Rod from the People's Republic of China: Supplemental Questions,'' ''Petition for the Imposition of Antidumping Duties on Imports of Carbon and Alloy Steel Threaded Rod from India: Supplemental Questions,'' ''Petition for the Imposition of Antidumping Duties on Imports of Carbon and Alloy Steel Threaded Rod from Taiwan: Supplemental Questions,'' and ''Petition for the Imposition of Antidumping Duties on Imports of Carbon and Alloy Steel Threaded Rod from Thailand: Supplemental Questions,'' dated February 26, 2019.

[3] *See* the petitioner's Letters, ''Carbon and Alloy Steel Threaded Rod from the People's Republic of China, India, Taiwan, and Thailand: Response to General Issues Questionnaire,'' (General Issues Supplement) ''Carbon and Alloy Steel Threaded Rod from India: Response to Questionnaire on Countervailing Duty Petition,'' ''Carbon and Alloy Steel Threaded Rod from China: Response to Questionnaire on Antidumping Petition,'' ''Carbon and Alloy Steel Threaded Rod from India: Response to Questionnaire on Antidumping Petition,'' ''Carbon and Alloy Steel Threaded Rod from Taiwan: Response to Questionnaire on Antidumping Petition,'' and ''Petition for the Imposition of Antidumping Duties on Imports of Carbon and Alloy Steel Threaded Rod from Thailand: Supplemental Questions,'' dated February 28, 2019, and Letter, ''Carbon and Alloy Steel Threaded Rod from China: Response to Questionnaire on Countervailing Duty Petition,'' dated March 1, 2019.

[4] *See* the ''Determination of Industry Support for the Petition'' section, *infra.*

[5] *See* General Issues Supplemental at 3–4; *see also* General Issues Supplement at 3–6.

aside a period for interested parties to raise issues regarding product coverage (scope).[6] Commerce will consider all comments received from interested parties and, if necessary, will consult with interested parties prior to the issuance of the preliminary determination. If scope comments include factual information,[7] all such factual information should be limited to public information. To facilitate preparation of its questionnaires, Commerce requests that all interested parties submit such comments by 5:00 p.m. Eastern Time (ET) on April 2, 2019, which is 20 calendar days from the signature date of this notice. Any rebuttal comments, which may include factual information, must be filed by 5:00 p.m. ET on April 12, 2019, which is 10 calendar days from the initial comments deadline.[8]

Commerce requests that any factual information parties consider relevant to the scope of the investigations be submitted during this period. However, if a party subsequently finds that additional factual information pertaining to the scope of the investigations may be relevant, the party may contact Commerce and request permission to submit the additional information. All such submissions must be filed on the records of the concurrent AD and CVD investigations.

Filing Requirements

All submissions to Commerce must be filed electronically using Enforcement and Compliance's Antidumping Duty and Countervailing Duty Centralized Electronic Service System (ACCESS).[9] An electronically filed document must be received successfully in its entirety by the time and date it is due. Documents exempted from the electronic submission requirements must be filed manually (*i.e.,* in paper form) with Enforcement and Compliance's APO/Dockets Unit, Room 18022, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230, and stamped with the date and time of receipt by the applicable deadlines.

Consultations

Pursuant to sections 702(b)(4)(A)(i) and (ii) of the Act, Commerce notified representatives of the GOC and GOI of the receipt of the CVD Petitions and provided them the opportunity for consultations with respect to the CVD Petitions.[10] Consultations were held with the GOI on March 11, 2019.[11] The GOC did not request consultations.

Determination of Industry Support for the Petitions

Section 702(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 702(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (i) At least 25 percent of the total production of the domestic like product; and (ii) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, section 702(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, Commerce shall: (i) Poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A); or (ii) determine industry support using a statistically valid sampling method to poll the ''industry.''

Section 771(4)(A) of the Act defines the ''industry'' as the producers, as a whole, of a domestic like product. Thus, to determine whether a petition has the requisite industry support, the statute directs Commerce to look to producers and workers who produce the domestic like product. The International Trade Commission (ITC), which is responsible for determining whether ''the domestic industry'' has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both Commerce and the ITC must apply the same statutory definition regarding the domestic like product,[12] they do so for different purposes and pursuant to a separate and distinct authority. In addition, Commerce's determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to law.[13]

Section 771(10) of the Act defines the domestic like product as ''a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title.'' Thus, the reference point from which the domestic like product analysis begins is ''the article subject to an investigation'' (*i.e.,* the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition).

With regard to the domestic like product, the petitioner does not offer a definition of the domestic like product distinct from the scope of the investigations.[14] Based on our analysis of the information submitted on the record, we have determined that steel threaded rod, as defined in the scope, constitutes a single domestic like product, and we have analyzed industry support in terms of that domestic like product.[15]

In determining whether the petitioner has standing under section 702(c)(4)(A) of the Act, we considered the industry support data contained in the CVD Petitions with reference to the domestic like product as defined in the ''Scope of the Investigations,'' in the Appendix to this notice. To establish industry support, the petitioner provided its own production of the domestic like product in 2018, as well as the 2018 production of Bay Standard Manufacturing Inc.

[6] *See Antidumping Duties; Countervailing Duties, Final Rule,* 62 FR 27296, 27323 (May 19, 1997) (*Preamble*).

[7] *See* 19 CFR 351.102(b)(21) (defining ''factual information'').

[8] *See* 19 CFR 351.303(b).

[9] *See Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures,* 76 FR 39263 (July 6, 2011). *See also Enforcement and Compliance: Change of Electronic Filing System Name,* 79 FR 69046 (November 20, 2014) for details of Commerce's electronic filing requirements, which went into effect on August 5, 2011. Information on help using ACCESS can be found at *https://access.trade.gov/help.aspx,* and a handbook can be found at *https://access.trade.gov/help/Handbook%20on%20Electronic%20Filling%20Procedures.pdf.*

[10] *See* Commerce's Letters, ''Countervailing Duty Petition on Carbon and Alloy Steel Threaded Rod from the People's Republic of China,'' dated February 22, 2019, and ''Countervailing Duty Petition on Carbon and Alloy Steel Threaded Rod from India: Invitation for Consultations to Discuss the Countervailing Duty Petition,'' dated March 1, 2019.

[11] *See* Memorandum to File, ''Consultations with Government Officials from the Government of India on the Countervailing Duty Petition Regarding Steel Threaded Rod from India,'' dated March 11, 2019.

[12] *See* section 771(10) of the Act.

[13] *See USEC, Inc.* v. *United States,* 132 F. Supp. 2d 1, 8 (CIT 2001) (citing *Algoma Steel Corp., Ltd.* v. *United States,* 688 F. Supp. 639, 644 (CIT 1988), *aff'd* 865 F.2d 240 (Fed. Cir. 1989)).

[14] *See* Volume I of the Petitions, at 8–12.

[15] For a discussion of the domestic like product analysis as applied to these cases and information regarding industry support, *see* Countervailing Duty Investigation Initiation Checklist: Carbon and Alloy Steel Threaded Rod from the People's Republic of China (China CVD Initiation Checklist), at Attachment II, Analysis of Industry Support for the Antidumping and Countervailing Duty Petition Covering Carbon and Alloy Steel Threaded Rod from the People's Republic of China, India, Taiwan, and Thailand (Attachment II); *see also* Countervailing Duty Investigation Initiation Checklist: Carbon and Alloy Steel Threaded Rod from India (India CVD Initiation Checklist), at Attachment II. These checklists are dated concurrently with this notice and on file electronically *via* ACCESS. Access to documents filed *via* ACCESS is also available in the Central Records Unit, Room B8024 of the main Department of Commerce building.

(Bay Standard), a U.S. producer of steel threaded rod that supports the CVD Petitions.[16] The petitioner compared the production of the supporters of the CVD Petitions to the estimated total production of the domestic like product for the entire domestic industry.[17] We relied on data provided by the petitioner and Bay Standard for purposes of measuring industry support.[18]

Our review of the data provided in the CVD Petitions, the General Issues Supplement, the Letter of Support, and other information readily available to Commerce indicates that the petitioners have established industry support for the CVD Petitions.[19] First, the CVD Petitions established support from domestic producers (or workers) accounting for more than 50 percent of the total production of the domestic like product and, as such, Commerce is not required to take further action in order to evaluate industry support (*e.g.,* polling).[20] Second, the domestic producers (or workers) have met the statutory criteria for industry support under section 702(c)(4)(A)(i) of the Act because the domestic producers (or workers) who support the Petitions account for at least 25 percent of the total production of the domestic like product.[21] Finally, the domestic producers (or workers) have met the statutory criteria for industry support under section 702(c)(4)(A)(ii) of the Act because the domestic producers (or workers) who support the Petitions account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the CVD Petitions.[22] Accordingly, Commerce determines that the CVD Petitions were filed on behalf of the domestic industry, within the meaning of section 702(b)(1) of the Act.

Commerce finds that the petitioner filed the CVD Petitions on behalf of the domestic industry, because it is an interested party, as defined in section 771(9)(C) of the Act, and it has demonstrated sufficient industry support with respect to the CVD investigations that it is requesting that Commerce initiate.[23]

Injury Test

Because China and India are ''Subsidies Agreement Countries'' within the meaning of section 701(b) of the Act, section 701(a)(2) of the Act applies to these investigations. Accordingly, the ITC must determine whether imports of the subject merchandise from China and/or India materially injure, or threaten material injury to, a U.S. industry.

Allegations and Evidence of Material Injury and Causation

The petitioner alleges that imports of the subject merchandise are benefitting from countervailable subsidies and that such imports are causing, or threaten to cause, material injury to the U.S. industry producing the domestic like product. In addition, the petitioner alleges that subject imports exceed the negligibility threshold provided for under section 771(24)(A) of the Act.[24] In CVD petitions, section 771(24)(B) of the Act provides that imports of subject merchandise from developing and least developed countries must exceed the negligibility threshold of four percent. The petitioner also demonstrates that subject imports from India, which has been designated as a least developed country under section 771(36)(B) of the Act, exceed the negligibility threshold of four percent.[25]

The petitioner contends that the industry's injured condition is illustrated by a significant and increasing volume of subject imports; reduced market share; underselling and price suppression; decline in the domestic industry's capacity utilization; the domestic industry's lagging production and shipments; decline in the domestic industry's financial performance; and lost sales and revenues.[26] We have assessed the allegations and supporting evidence regarding material injury, threat of material injury, causation, as well as cumulation, and we have determined that these allegations are properly supported by adequate evidence, and meet the statutory requirements for initiation.[27]

Initiation of CVD Investigations

Based on the examination of the CVD Petitions, we find that they meet the requirements of section 702 of the Act. Therefore, we are initiating CVD investigations to determine whether imports of steel threaded rod from China and India benefit from countervailable subsidies conferred by the GOC and GOI. In accordance with section 703(b)(1) of the Act and 19 CFR 351.205(b)(1), unless postponed, we will make our preliminary determination no later than 65 days after the date of this initiation.

China

Based on our review of the CVD Petition, we find that there is sufficient information to initiate a CVD investigation on 19 of the 21 alleged programs. For a full discussion of the basis for our decision to initiate on each program, *see* China CVD Initiation Checklist. A public version of the initiation checklist for this investigation is available on ACCESS.

India

Based on our review of the CVD Petition, we find that there is sufficient information to initiate a CVD investigation on 19 of the 52 alleged programs. For a full discussion of the basis for our decision to initiate on each program, see India CVD Initiation Checklist. A public version of the initiation checklist for this investigation is available on ACCESS.

Respondent Selection

In the CVD Petitions, the petitioners named 446 companies in China and 32 companies in India as producers/exporters of steel threaded rod.[28] Commerce intends to follow its standard practice in CVD investigations and calculate company-specific subsidy rates in these investigations. In the event Commerce determines that the number of companies is large and it cannot individually examine each company based upon Commerce's resources, where appropriate, Commerce intends to select mandatory respondents based on U.S. Customs and Border Protection (CBP) data for U.S. imports of steel threaded rod from China and India during the POI under the appropriate Harmonized Tariff Schedule of the United States numbers

[16] *See* Volume I of the Petitions, at Exhibit I–2; *see also* Letter from Bay Standard, ''Carbon and Alloy Steel Threaded Rod from the People's Republic of China, India, Taiwan, and Thailand: Support for the Petitions,'' dated February 25, 2019 (Letter of Support), at Attachment I.

[17] *See* General Issues Supplement, at 6 and Exhibits 3 and 5.

[18] *Id.* For further discussion, *see* China CVD Initiation Checklist, at Attachment II; and India CVD Initiation Checklist, at Attachment II.

[19] *Id.*

[20] *Id.; see also* section 702(c)(4)(D) of the Act.

[21] *See* China CVD Initiation Checklist, at Attachment II; and India CVD Initiation Checklist, at Attachment II.

[22] *Id.*

[23] *Id.*

[24] *See* Volume I of the Petitions, at 18 and Exhibit I–14.

[25] *Id.*

[26] *Id.* at 15–35 and Exhibits I–3, I–4, I–10, I–11, I–13, I–14 and I–16 through I–20.

[27] *See* China CVD Initiation Checklist, at Attachment III, Analysis of Allegations and Evidence of Material Injury and Causation for the Antidumping and Countervailing Duty Petitions Covering Carbon and Alloy Steel Threaded Rod from the People's Republic of China, India, Taiwan, and Thailand (Attachment III); and India CVD Initiation Checklist, at Attachment III.

[28] *See* Volume I of the Petitions at Exhibit I–13.

listed in the ''Scope of the Investigation,'' in the Appendix.

On March 11, 2019, Commerce released CBP data under Administrative Protective Order (APO) to all parties with access to information protected by APO and indicated that interested parties wishing to comment regarding the CBP data and respondent selection must do so within three business days of the publication date of the notice of initiation of these CVD investigations.[29] Commerce will not accept rebuttal comments regarding the CBP data or respondent selection.

Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305(b). Instructions for filing such applications may be found on the Commerce's website at *http://enforcement.trade.gov/apo.*

Comments must be filed electronically using ACCESS. An electronically filed document must be received successfully, in its entirety, by ACCESS no later than 5:00 p.m. ET on the date noted above. We intend to finalize our decisions regarding respondent selection within 20 days of publication of this notice.

Distribution of Copies of the Petitions

In accordance with section 702(b)(4)(A)(i) of the Act and 19 CFR 351.202(f), copies of the public version of the Petitions have been provided to the GOC *via* ACCESS. To the extent practicable, we will attempt to provide a copy of the public version of the Petitions to each exporter named in the Petitions, as provided under 19 CFR 351.203(c)(2).

ITC Notification

We will notify the ITC of our initiation, as required by section 702(d) of the Act.

Preliminary Determinations by the ITC

The ITC will preliminarily determine, within 45 days after the date on which the CVD Petitions were filed, whether there is a reasonable indication that imports of steel threaded rod from China and India are materially injuring, or threatening material injury to, a U.S. industry.[30] A negative ITC determination in any country will result in the investigations being terminated with respect to that country.[31] Otherwise, these investigations will proceed according to statutory and regulatory time limits.

Submission of Factual Information

Factual information is defined in 19 CFR 351.102(b)(21) as: (i) Evidence submitted in response to questionnaires; (ii) evidence submitted in support of allegations; (iii) publicly available information to value factors under 19 CFR 351.408(c) or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2); (iv) evidence placed on the record by Commerce; and (v) evidence other than factual information described in (i)–(iv). 19 CFR 351.301(b) requires any party, when submitting factual information, to specify under which subsection of 19 CFR 351.102(b)(21) the information is being submitted[32] and, if the information is submitted to rebut, clarify, or correct factual information already on the record, to provide an explanation identifying the information already on the record that the factual information seeks to rebut, clarify, or correct.[33] Time limits for the submission of factual information are addressed in 19 CFR 351.301, which provides specific time limits based on the type of factual information being submitted. Interested parties should review the regulations prior to submitting factual information in these investigations.

Extensions of Time Limits

Parties may request an extension of time limits before the expiration of a time limit established under 19 CFR 351.301, or as otherwise specified by the Secretary. In general, an extension request will be considered untimely if it is filed after the expiration of the time limit established under 19 CFR 351.301. For submissions that are due from multiple parties simultaneously, an extension request will be considered untimely if it is filed after 10:00 a.m. ET on the due date. Under certain circumstances, we may elect to specify a different time limit by which extension requests will be considered untimely for submissions which are due from multiple parties simultaneously. In such a case, we will inform parties in the letter or memorandum setting forth the deadline (including a specified time) by which extension requests must be filed to be considered timely. An extension request must be made in a separate, stand-alone submission; under limited circumstances we will grant untimely-filed requests for the extension of time limits. Parties should review *Extension of Time Limits; Final Rule,* 78 FR 57790 (September 20, 2013), available at *http://www.gpo.gov/fdsys/pkg/FR-2013-09-20/html/2013-22853.htm,* prior to submitting factual information in these investigations.

Certification Requirements

Any party submitting factual information in an AD or CVD proceeding must certify to the accuracy and completeness of that information.[34] Parties must use the certification formats provided in 19 CFR 351.303(g).[35] Commerce intends to reject factual submissions if the submitting party does not comply with the applicable certification requirements.

Notification to Interested Parties

Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305. On January 22, 2008, Commerce published *Antidumping and Countervailing Duty Proceedings: Documents Submission Procedures; APO Procedures,* 73 FR 3634 (January 22, 2008). Parties wishing to participate in these investigations should ensure that they meet the requirements of these procedures (*e.g.,* the filing of letters of appearance as discussed at 19 CFR 351.103(d)).

This notice is issued and published pursuant to sections 702 and 777(i) of the Act and 19 CFR 351.203(c).

Dated: March 13, 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

Scope of the Investigations

The merchandise covered by the scope of these investigations is carbon and alloy steel threaded rod. Steel threaded rod is certain threaded rod, bar, or studs, of carbon or alloy steel, having a solid, circular cross section of any diameter, in any straight length. Steel threaded rod is normally drawn, cold-rolled, threaded, and straightened, or it may be hot-rolled. In addition, the steel threaded rod, bar, or studs subject to these investigations are non-headed and threaded along greater than 25 percent of their total actual length. A variety of finishes or coatings, such as

[29] *See* Memorandum, ''Carbon and Alloy Steel Threaded Rod from the People's Republic of China (China) Countervailing Duty Petition: Release of Customs Data from U.S. Customs and Border Protection'' dated March 11, 2019, and Memorandum, ''Carbon and Alloy Steel Threaded Rod from India Countervailing Duty Petition: Release of Customs Data from U.S. Customs and Border Protection,'' dated March 11, 2019.

[30] *See* section 703(a)(2) of the Act.

[31] *See* section 703(a)(1) of the Act.

[32] *See* 19 CFR 351.301(b).

[33] *See* 19 CFR 351.301(b)(2).

[34] *See* section 782(b) of the Act.

[35] *See Certification of Factual Information to Import Administration During Antidumping and Countervailing Duty Proceedings,* 78 FR 42678 (July 17, 2013) (''*Final Rule*''); *see also* frequently asked questions regarding the *Final Rule,* available at *http://enforcement.trade.gov/tlei/notices/factual_info_final_rule_FAQ_07172013.pdf.*

plain oil finish as a temporary rust protectant, zinc coating (*i.e.,* galvanized, whether by electroplating or hot-dipping), paint, and other similar finishes and coatings, may be applied to the merchandise.

Steel threaded rod is normally produced to American Society for Testing and Materials (ASTM) specifications ASTM A36, ASTM A193 B7/B7m, ASTM A193 B16, ASTM A307, ASTM A329 L7/L7M, ASTM A320 L43, ASTM A354 BC and BD, ASTM A449, ASTM F1554–36, ASTM F1554–55, ASTM F1554 Grade 105, American Society of Mechanical Engineers (ASME) specification ASME B18.31.3, and American Petroleum Institute (API) specification API 20E. All steel threaded rod meeting the physical description set forth above is covered by the scope of these investigations, whether or not produced according to a particular standard.

Subject merchandise includes material matching the above description that has been finished, assembled, or packaged in a third country, including by cutting, chamfering, coating, or painting the threaded rod, by attaching the threaded rod to, or packaging it with, another product, or any other finishing, assembly, or packaging operation that would not otherwise remove the merchandise from the scope of the investigations if performed in the country of manufacture of the threaded rod.

Carbon and alloy steel threaded rod are also included in the scope of these investigations whether or not imported attached to, or in conjunction with, other parts and accessories such as nuts and washers. If carbon and alloy steel threaded rod are imported attached to, or in conjunction with, such non-subject merchandise, only the threaded rod is included in the scope.

Excluded from the scope of these investigations are: (1) Threaded rod, bar, or studs which are threaded only on one or both ends and the threading covers 25 percent or less of the total actual length; and (2) stainless steel threaded rod, defined as steel threaded rod containing, by weight, 1.2 percent or less of carbon and 10.5 percent or more of chromium, with our without other elements.

Excluded from the scope of the antidumping investigation on steel threaded rod from the People's Republic of China is any merchandise covered by the existing antidumping order on Certain Steel Threaded Rod from the People's Republic of China. *See Certain Steel Threaded Rod from the People's Republic of China: Notice of Antidumping Duty Order,* 74 FR 17154 (April 14, 2009).

Steel threaded rod is currently classifiable under subheadings 7318.15.5051, 7318.15.5056, and 7318.15.5090 of the Harmonized Tariff Schedule of the United States (HTSUS). Subject merchandise may also enter under subheading 7318.15.2095 and 7318.19.0000 of the HTSUS. The HTSUS subheadings are provided for convenience and U.S. Customs purposes only. The written description of the scope is dispositive.

[FR Doc. 2019–05138 Filed 3–18–19; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XG881

Marine Mammals; File No. 22686

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

ACTION: Notice; receipt of application.

SUMMARY: Notice is hereby given that the Chicago Zoological Society, Brookfield Zoo (Bill Zeigler, Responsible Party), 3300 Golf Road, Brookfield, IL 60513, has applied in due form for a permit to import up to three bottlenose dolphins (*Tursiops truncatus*) for public display.

DATES: Written, telefaxed, or email comments must be received on or before April 18, 2019.

ADDRESSES: These documents are available upon written request or by appointment in the Permits and Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301) 427–8401; fax (301) 713–0376.

Written comments on this application should be submitted to the Chief, Permits and Conservation Division, at the address listed above. Comments may also be submitted by facsimile to (301) 713–0376, or by email to *NMFS.Pr1Comments@noaa.gov.* Please include the File No. 22686 in the subject line of the email comment.

Those individuals requesting a public hearing should submit a written request to the Chief, Permits and Conservation Division at the address listed above. The request should set forth the specific reasons why a hearing on this application would be appropriate.

FOR FURTHER INFORMATION CONTACT: Jennifer Skidmore and Courtney Smith, (301) 427–8401.

SUPPLEMENTARY INFORMATION: The subject permit is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (MMPA; 16 U.S.C. 1361 *et seq.*) and the regulations governing the taking and importing of marine mammals (50 CFR part 216).

The applicant is proposing to import up to three captive born bottlenose dolphins from Dolphin Quest Bermuda to either the Brookfield Zoo in Brookfield, IL or Coral World Ocean Park in St. Thomas, U.S. Virgin Islands for public display purposes. The requested duration of the permit is five years.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), an initial determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of the application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: March 14, 2019.

Julia Marie Harrison,

Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2019–05126 Filed 3–18–19; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XG897

Mid-Atlantic Fishery Management Council (MAFMC); Public Meeting

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

ACTION: Notice; public meeting.

SUMMARY: The Mid-Atlantic Fishery Management Council and the Atlantic States Marine Fisheries Commission will hold a joint webinar meeting of their Summer Flounder, Scup, and Black Sea Bass Advisory Panels.

DATES: The meeting will be held on April 2, 2019, from 1 p.m. to 3 p.m. See **SUPPLEMENTARY INFORMATION** for agenda details.

ADDRESSES: The meeting will be held via webinar, with an option to connect via telephone only. Connection information will be posted to *http://www.mafmc.org/council-events.*

Council address: Mid-Atlantic Fishery Management Council, 800 N State Street, Suite 201, Dover, DE 19901; telephone: (302) 674–2331; website: *www.mafmc.org.*

FOR FURTHER INFORMATION CONTACT: Christopher M. Moore, Ph.D., Executive Director, Mid-Atlantic Fishery Management Council, telephone: (302) 526–5255.

SUPPLEMENTARY INFORMATION: The Mid-Atlantic Fishery Management Council and the Atlantic States Marine Fisheries Commission will hold a joint webinar meeting of their Summer Flounder,

Scup, and Black Sea Bass Advisory Panels on April 2, 2019 (see **DATES** and **ADDRESSES**). The purpose of this meeting is to discuss potential changes to commercial management measures, including the state-by-state commercial quota allocations managed by the Atlantic States Marine Fisheries Commission, federal in-season closure regulations, and other measures. The Council recently initiated an amendment to consider these and other issues; however, they agreed to postpone development of management alternatives until later in the year after the Atlantic States Marine Fisheries Commission's Black Sea Bass Commercial Working Group has made further progress on options for revisions to the state-by-state commercial quota allocations.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aid should be directed to M. Jan Saunders, (302) 526–5251, at least 5 days prior to the meeting date.

Dated: March 14, 2019.

Rey Israel Marquez,

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

[FR Doc. 2019–05124 Filed 3–18–19; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XG875

Marine Mammals; File No. 22311

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

ACTION: Notice; receipt of application.

SUMMARY: Notice is hereby given that David Johnston, Ph.D., Duke University, Marine Science and Conservation, 135 Duke Marine Lab Road, Beaufort, NC 28516, has applied in due form for a permit to receive specimens of northern fur seals (*Callorhinus ursinus*) for scientific research.

DATES: Written, telefaxed, or email comments must be received on or before April 18, 2019.

ADDRESSES: The application and related documents are available for review by selecting ''Records Open for Public Comment'' from the ''Features'' box on the Applications and Permits for Protected Species (APPS) home page, *https://apps.nmfs.noaa.gov,* and then selecting File No. 22311 from the list of available applications.

These documents are also available upon written request or by appointment in the Permits and Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301) 427–8401; fax (301) 713–0376.

Written comments on this application should be submitted to the Chief, Permits and Conservation Division, at the address listed above. Comments may also be submitted by facsimile to (301) 713–0376, or by email to *NMFS.Pr1Comments@noaa.gov*. Please include the File No. 22311 in the subject line of the email comment.

Those individuals requesting a public hearing should submit a written request to the Chief, Permits and Conservation Division at the address listed above. The request should set forth the specific reasons why a hearing on this application would be appropriate.

FOR FURTHER INFORMATION CONTACT: Jennifer Skidmore or Carrie Hubard, (301) 427–8401.

SUPPLEMENTARY INFORMATION: The subject permit is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (MMPA; 16 U.S.C. 1361 *et seq.*), the regulations governing the taking and importing of marine mammals (50 CFR part 216) and the Fur Seal Act of 1966, as amended (16 U.S.C. 1151 *et seq.*).

The applicant proposes to receive fur samples from up to 20 northern fur seals taken during subsistence hunts in Alaska. These samples will be used in the development of a new adhesive system for rapidly affixing biologging tags to seals and sea lions. The requested duration of the permit is five years.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), an initial determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of the application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: March 14, 2019.

Julia Marie Harrison,

Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2019–05125 Filed 3–18–19; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XG895

New England Fishery Management Council; Public Meeting

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

ACTION: Notice; public meeting.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a public meeting of its Ecosystem-Based Fishery Management (EBFM) Committee to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from this group will be brought to the full Council for formal consideration and action, if appropriate.

DATES: This meeting will be held on Thursday, April 4, 2019 at 9:30 a.m.

ADDRESSES:

Meeting address: The meeting will be held at the Radisson Airport Hotel, 2081 Post Road, Warwick, RI 02886; telephone: (401) 739–3000.

Council address: New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Thomas A. Nies, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

SUPPLEMENTARY INFORMATION:

Agenda

The committee will discuss and develop options, strengths, and weaknesses of several strategies for permitting vessels to fish and receive catch allocations which could be consistent with example Fishery Ecosystem Plan (eFEP) catch management. It is not the intent to reduce capacity or re-qualify vessels and the committee will not discuss specific qualification criteria at this time. These strategies will eventually be incorporated into a draft Georges Bank eFEP. The committee will also discuss related business, including additional tasking for the Plan Development Team to complete a draft eFEP. Other business will be discussed as necessary.

Although non-emergency issues not contained on this agenda may come before this Council for discussion, those issues may not be the subject of formal action during this meeting. Council action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this

notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. This meeting will be recorded. Consistent with 16 U.S.C. 1852, a copy of the recording is available upon request. Requests for sign language interpretation or other auxiliary aids should be directed to Thomas A. Nies, Executive Director, at (978) 465–0492, at least 5 days prior to the meeting date.

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

Dated: March 14, 2019.

Rey Israel Marquez,

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

[FR Doc. 2019–05123 Filed 3–18–19; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XG891

New England Fishery Management Council; Public Meetings

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

ACTION: Notice; public listening sessions.

SUMMARY: The New England Fishery Management Council (Council) will hold seven listening sessions and one webinar to solicit public comments on a possible limited access program for the recreational party and charter fishery to the Northeast Multispecies (groundfish) Fishery Management Plan.

DATES: Written public comments must be received on or before 5 p.m. EST, Friday, May 17, 2019. These meetings will be held between April 4, 2019 and May 10, 2019. For specific dates and times see **SUPPLEMENTARY INFORMATION**.

ADDRESSES: The hearings will be held in Seabrook, NH, Avalon, NJ, Wells, ME, Narragansett, RI, Chatham, MA, Plymouth, MA and Gloucester, MA. For specific locations, see **SUPPLEMENTARY INFORMATION**.

Public comments: Mail to Thomas A. Nies, Executive Director, New England Fishery Management Council, 50 Water Street, Mill #2, Newburyport, MA 01950. Mark the outside of the envelope ''Listening Sessions for the Recreational Northeast Multispecies (Groundfish) Party and Charter Fishery''. Comments may also be sent via fax to (978) 465–3116 or submitted via email to *comments@nefmc.org* with ''Listening Sessions for the Recreational Northeast Multispecies (Groundfish) Party and Charter Fishery'' in the subject line.

FOR FURTHER INFORMATION CONTACT: Thomas Nies, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

SUPPLEMENTARY INFORMATION: The Council is seeking public input on the possibility of developing a limited access program for the recreational groundfish party and charter fishery. After information is gathered through the listening sessions, the Groundfish Committee will consider possibly recommending to the Council an initiation of an amendment, with input from the Recreational Advisory Panel and Groundfish Plan Development Team, through a series of public meetings during 2019. The schedule is as follows:

1. Thursday, April 4, 2019 from 5:45 p.m.–7:45 p.m.; Seabrook Public Library, 25 Liberty Lane, Seabrook, NH; phone: (603) 474–2044.
2. Monday, April 8, 2019 from 6–8 p.m.; Icona Golden Inn, 7849 Dune Drive, Avalon, NJ; phone: (609) 368–5155.
3. Thursday, April 18, 2019 from 5:45–7:45 p.m.; Wells Public Library, 1434 Post Road, Wells, ME; phone: (207) 646–8181.
4. Tuesday, April 23, 2019 from 6–8 p.m.; Corless Auditorium, University of Rhode Island, Graduate School of Oceanography, 215 South Ferry Road, Narragansett, RI 02882; phone: (401) 874–6222.
5. Tuesday, May 7, 2019 from 6–8 p.m.: Chatham Community Center, 702 Main Street, Chatham, MA 02633; phone: (508) 945–5175
6. Wednesday, May 8, 2019 from 6–8 p.m.; Hampton Inn, 10 Plaza Way, Plymouth, MA; phone: (508) 747–5000.
7. Thursday, May 9, 2019 from 5:45-7:45 p.m.; Sawyer Free Library, 2 Dale Avenue, Gloucester, MA; phone: (978) 281–9763.
8. Friday, May 10, 2019 from 1–3 p.m.; Webinar Session; Register to participate *https://attendee.gotowebinar.com/register/8873736532644639746.* Audio only call +1 (213) 929–4232; access code 494–243–526.

Additional information is available on the Council website, *https://www.nefmc.org/library/limited-access-listening-sessions-for-recreational-fisheries.* The public also should be aware that the sessions will be recorded. Consistent with 16 U.S.C. 1852, a copy of the recording is available upon request.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Thomas Nies (see **ADDRESSES**), at least 5 working days prior to the meeting date.

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

Dated: March 14, 2019.

Rey Israel Marquez,

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

[FR Doc. 2019–05122 Filed 3–18–19; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XG893

Western Pacific Fishery Management Council; Public Meetings

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

ACTION: Notice of public meetings.

SUMMARY: The Western Pacific Fishery Management Council (Council) will hold its 177th Council meeting by teleconference and webinar to take actions on fishery management issues in the Western Pacific Region. The Council will also hold a Biological Opinion Review Advisory Panel meeting by teleconference and webinar.

DATES: The Biological Opinion Review Advisory Panel meeting will be held on April 2, 2019, and the 177th Council meeting will be held on April 4, 2019. For specific times and agendas, see **SUPPLEMENTARY INFORMATION**.

ADDRESSES: The meetings will be held by teleconference and webinar. The teleconference numbers are U.S. toll-free (888) 482–3560 or International Access: +1 (647) 723–3959, and Access Code: 5228220. The webinar can be accessed at: *https://wprfmc.webex.com/join/info.wpcouncilnoaa.gov.*

The host site for the Biological Opinion Review Advisory Panel meeting teleconference will be the Council Conference Room, 1164 Bishop St., Suite 1400, Honolulu, HI. The following venues will also be host sites for the 177th Council Meeting

teleconference: Council Conference Room, 1164 Bishop St., Suite 1400, Honolulu, HI; Native American Samoa Advisory Council Office Conference Room, Pava'ia'i Village, Pago Pago, AS; Guam Hilton Resort and Spa, 202 Hilton Rd., Tumon Bay, GU; Department of Land and Natural Resources Conference Room, Lower Base Drive, Saipan, MP.

FOR FURTHER INFORMATION CONTACT: Kitty M. Simonds, Executive Director, Western Pacific Fishery Management Council, (808) 522–8220 (voice) or (808) 522–8226 (fax).

SUPPLEMENTARY INFORMATION: The Biological Opinion Review Advisory Panel meeting will be held on April 2, 2019, from 1 p.m. to 3 p.m. (Hawaii Standard Time (HST)). The 177th Council Meeting will be held on April 4, 2019, from 1 p.m. to 4 p.m. (HST) and from noon to 3 p.m. (Samoa Standard Time (SST)), and on April 5, 2019, from 9 a.m. to noon (Chamorro Standard Time (ChST)). Agenda items noted as ''Final Action Items'' refer to actions that may result in Council transmittal of a proposed fishery management plan, proposed plan amendment, or proposed regulations to the U.S. Secretary of Commerce, under Sections 304 or 305 of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). Opportunities to present oral public comment will be provided throughout the agendas. The order of the agenda may change, and will be announced in advance at the meetings. The meetings may run past the scheduled times noted above to complete scheduled business.

Background documents for the 177th Council meeting will be available at *http://www.wpcouncil.org.* Written public comments for the 177th Council meeting should be received at the Council office by 5 p.m. (HST), April 1, 2019, and should be sent to Kitty M. Simonds, Executive Director; Western Pacific Fishery Management Council, 1164 Bishop Street, Suite 1400, Honolulu, HI 96813; fax: (808) 522–8226; or email: *info.wpcouncil@noaa.gov.*

Agenda for the Biological Opinion Review Advisory Panel Meeting

Tuesday, April 2, 2019, 1 p.m. to 3 p.m. (HST)

1. Introductions
2. Overview of the Advisory Panel Task
3. Overview of the Draft Biological Opinion for the Hawaii-based Shallow-set Longline Fishery
4. Advisory Panel Review of the Draft Biological Opinion
5. Public Comment
6. Advisory Panel Discussion and Recommendations
7. Other Business

Agenda for 177th Council Meeting

Thursday, April 4, 2019, 1 p.m.–4 p.m. (HST); Thursday, April 4, 2019, 12 p.m.–3 p.m. (ASST); Friday, April 4, 2019, 9 a.m.–12 p.m. (MST)

1. Welcome and Introductions
2. Approval of the 177th Agenda
3. Draft Biological Opinion for the Hawaii-based Shallow-set Longline Fishery
4. Biological Opinion Review Advisory Panel Report and Recommendations
5. Managing Loggerhead and Leatherback Sea Turtle Interactions in the Hawaii-based Shallow-set Longline Fishery (Final Action Item)
6. Public Hearing
7. Council Discussion and Recommendations
8. Other Business

Non-emergency issues not contained in this agenda may come before the Council for discussion and formal Council action during the 177th meeting. However, Council action on regulatory issues will be restricted to those issues specifically listed in this document and any regulatory issue arising after publication of this document that requires emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take action to address the emergency.

Special Accommodations

These meetings are accessible to people with disabilities. Please direct requests for sign language interpretation or other auxiliary aids to Kitty M. Simonds (see **FOR FURTHER INFORMATION CONTACT** section above) at least five days prior to the meeting date.

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

Dated: March 13, 2019.

Tracey L. Thompson,

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

[FR Doc. 2019–05056 Filed 3–18–19; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Telecommunications and Information Administration

Recruitment of First Responder Network Authority Board Members

AGENCY: National Telecommunications and Information Administration, U.S. Department of Commerce.

ACTION: Notice.

SUMMARY: The National Telecommunications and Information Administration (NTIA) issues this Notice on behalf of the First Responder Network Authority (FirstNet) to initiate the annual process to seek expressions of interest from individuals who would like to serve on the FirstNet Board. One of the 12 appointments of nonpermanent members to the FirstNet Board will expire in August 2019. NTIA issues this Notice to obtain expressions of interest in being appointed by the Secretary to the FirstNet Board.

DATES: Expressions of interest must be postmarked or electronically transmitted on or before April 18, 2019.

ADDRESSES: Persons wishing to submit expressions of interest as described below should send that information to: Marsha MacBride, Associate Administrator, Office of Public Safety Communications, National Telecommunications and Information Administration, by email to *FirstNetBoardApplicant@ntia.doc.gov;* or by U.S. mail or commercial delivery service to: Office of Public Safety Communications, National Telecommunications and Information Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Room 4078, Washington, DC 20230. Please note that all material sent via the U.S. Postal Service (including ''Overnight'' or ''Express Mail'') is subject to delivery delays of up to two weeks due to mail security procedures.

FOR FURTHER INFORMATION CONTACT: Marsha MacBride, Associate Administrator, Office of Public Safety Communications, National Telecommunications and Information Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Room 4078, Washington, DC 20230; telephone: (202) 482–1150; email: *mmacbride@ntia.doc.gov.* Please direct media inquiries to NTIA's Office of Public Affairs, (202) 482–7002.

SUPPLEMENTARY INFORMATION:

I. Background and Authority

The Middle Class Tax Relief and Job Creation Act of 2012 (Act) created the First Responder Network Authority (FirstNet) as an independent authority within NTIA and charged it with ensuring the building, deployment, and operation of a nationwide, interoperable public safety broadband network, based on a single, national network architecture.[1] FirstNet holds the single public safety license granted for

[1] 47 U.S.C. 1422(b).

wireless public safety broadband deployment. The FirstNet Board is responsible for providing overall policy direction and oversight of FirstNet to ensure that the nationwide network continuously meets the needs of public safety.

II. Structure

The FirstNet Board is composed of 15 voting members. The Act names the Secretary of the Department of Homeland Security, the Attorney General of the United States, and the Director of the Office of Management and Budget as permanent members of the FirstNet Board. The Secretary of Commerce appoints the twelve nonpermanent members of the FirstNet Board.[2] The Act requires each Board member to have experience or expertise in at least one of the following substantive areas: Public safety, network, technical, and/or financial.[3] Additionally, the composition of the FirstNet Board must satisfy the other requirements specified in the Act, including that: (i) At least three Board members have served as public safety professionals; (ii) at least three members represent the collective interests of states, localities, tribes, and territories; and (iii) its members reflect geographic and regional, as well as rural and urban, representation.[4] An individual Board member may satisfy more than one of these requirements. The current nonpermanent FirstNet Board members are (noting length of term):

- Edward Horowitz, Chair, Venture capital/technology executive (Term expires: August 2021)
- Teri Takai, Government information technology expert; former CIO, states of Michigan and California (Term expires: August 2019)
- Robert Tipton Osterthaler, Business/technology executive, network (Term expires: January 2021)
- Richard Ross, Jr., Police Commissioner, City of Philadelphia (Term expires: January 2021)
- Richard W. Stanek, Sheriff, Hennepin County, Minnesota (Term expires: January 2021)
- David Zolet, President & CEO, LMI (Term expires: January 2021)
- Richard Carrizzo, Fire Chief, Southern Platte Fire Protection District, MO (Term expires August 2021)
- Neil E. Cox, Telecommunications/technology executive (Term expires: August 2021)
- Brian Crawford, SVP and Chief Administrative Officer for Willis-Knighton Health System/former Fire Chief and municipal government executive (Term expires: August 2021)
- Billy Hewes, Mayor of Gulfport, MS (Term expires: August 2021)
- Paul Patrick, Division Director, Family Health and Preparedness, Utah Department of Health (Term expires: August 2021)
- Brigadier General Welton Chase, Retired, U. S. Army, Army Information Technology (Term expires: September 2021)

More information about the FirstNet Board is available at *www.firstnet.gov/about/Board.* Board members are appointed for a term of three years, and Board members may not serve more than two consecutive full three-year terms.[5]

III. Compensation and Status as Government Employees

FirstNet Board members are appointed as special government employees. FirstNet Board members are compensated at the daily rate of basic pay for level IV of the Executive Schedule (approximately $164,200 per year).[6] Each Board member must be a United States citizen, cannot be a registered lobbyist, and cannot be a registered agent of, employed by, or receive payments from a foreign government.[7]

IV. Financial Disclosure and Conflicts of Interest

FirstNet Board members must comply with certain federal conflict of interest statutes and ethics regulations, including some financial disclosure requirements. A FirstNet Board member will generally be prohibited from participating on any particular matter that will have a direct and predictable effect on his or her personal financial interests or on the interests of the appointee's spouse, minor children, or non-federal employer.

V. Selection Process

At the direction of the Secretary of Commerce, NTIA will conduct outreach to the public safety community, state and local organizations, and industry to solicit nominations for candidates to the Board who satisfy the statutory requirements for membership. In addition, by this Notice, the Secretary of Commerce, through NTIA, will accept expressions of interest until April 18, 2019, from any individual, or any organization that wishes to propose a candidate, who satisfies the statutory requirements for membership on the FirstNet Board.

All parties wishing to be considered should submit their full name, address, telephone number, email address, a current resume, and a statement of qualifications that references how the candidate satisfies the Act's expertise, representational, and geographic requirements for FirstNet Board membership, as described in this Notice, along with a statement describing why they want to serve on the FirstNet Board and affirming their ability and availability to take a regular and active role in the Board's work. The Secretary of Commerce will select FirstNet Board candidates based on the eligibility requirements in the Act and recommendations submitted by NTIA. NTIA will recommend candidates based on an assessment of their qualifications as well as their demonstrated ability to work in a collaborative way to achieve the goals and objectives of FirstNet as set forth in the Act. NTIA may consult with FirstNet Board members or executives in making its recommendation. Board candidates will be vetted through the Department of Commerce and are subject to an appropriate background check for security clearance.

Dated: March 13, 2019.

Kathy Smith,

Chief Counsel, National Telecommunications and Information Administration.

[FR Doc. 2019–05076 Filed 3–18–19; 8:45 am]

BILLING CODE 3510–10–P

[2] 47 U.S.C. 1424(b).

[3] 47 U.S.C. 1424(b)(2)(B).

[4] 47 U.S.C. 1424(b)(2)(A).

[5] 47 U.S.C. 1424(c)(2)(A)(ii).

[6] 47 U.S.C. 1424(g).

[7] *See,* Revised Guidance on Appointment of Lobbyists to Federal Advisory Committees, Boards, and Commissions, Office of Management and Budget, 79 FR 47482 (Aug. 13, 2014).

DEPARTMENT OF COMMERCE

Patent and Trademark Office

National Telecommunications and Information Administration

[Docket No.: PTO–C–2019–0004]

Notice of Third Public Meeting on Developing the Digital Marketplace for Copyrighted Works

AGENCY: United States Patent and Trademark Office, U.S. Department of Commerce; National Telecommunications and Information Administration, U.S. Department of Commerce.

ACTION: Notice of public meeting.

SUMMARY: The Department of Commerce's internet Policy Task Force (Task Force) will hold a conference at the United States Patent and Trademark Office (USPTO) facility in Alexandria,

Virginia, on March 28, 2019, to discuss current initiatives and technologies used to develop a more robust and collaborative digital marketplace for copyrighted works. In the previous public comments and meetings, the Task Force heard from stakeholders that the government can play a useful role by facilitating dialogues between and among industry sectors and by convening stakeholder groups to make recommendations on specific issues. Based on this feedback, the Task Force is organizing this meeting to build on the work of the prior meetings and continue to facilitate constructive, cross-industry dialogue about ways to promote a robust and collaborative online marketplace for copyrighted works.

DATES: The public meeting will be held on March 28, 2019, from 9:00 a.m. to 5:00 p.m., Eastern Daylight Time. Registration will begin at 8:30 a.m.

ADDRESSES: The public meeting will be held at the United States Patent and Trademark Office in the Clara Barton Auditorium (formerly the Madison Auditorium), which is located at 600 Dulany Street, Alexandria, Virginia 22314. All major entrances to the building are accessible to people with disabilities. In addition, the meeting will be webcast for public viewing.

FOR FURTHER INFORMATION CONTACT: For further information regarding the meeting, contact Kortney Hammonds or Susan Allen, Office of Policy and International Affairs, USPTO, Madison Building, 600 Dulany Street, Alexandria, Virginia 22314; telephone (571) 272–9300; email *Kortney.Hammonds@uspto.gov* or *Susan.Allen@uspto.gov.* Please direct all media inquiries to the Office of the Chief Communications Officer, USPTO, at (571) 272–8400.

SUPPLEMENTARY INFORMATION:

Background

A. Ongoing Government Engagement Relating to Copyright in the Digital Economy

The Department of Commerce established the Task Force in 2010 to identify leading public policy and operational issues affecting the U.S. private sector's ability to realize the potential for economic growth and job creation through the internet. The Task Force's July 2013 report *Copyright Policy, Creativity, and Innovation in the Digital Economy* (Green Paper) [1] was the product of extensive public consultations led by the USPTO and the National Telecommunications and Information Administration (NTIA).

The Green Paper devoted a chapter to ''Ensuring an Efficient Online Marketplace,'' which looked at then-current examples of digital licensing options, as well as impediments to their development and adoption. Such challenges included the complexity of licensing in the online environment, mapping old contracts to new uses, and cross-border licensing. The Green Paper concluded that, while the private sector would continue to make progress towards resolving online licensing issues, there may be ways in which the U.S. Government could play a helpful role on both the domestic and international fronts. Over the subsequent five years, the Task Force has solicited comments and convened public meetings to further discuss these issues.

On December 9, 2016, the Task Force held a meeting that was designed to facilitate constructive, cross-industry dialogue among stakeholders about ways to promote a more robust and collaborative online marketplace for copyrighted works. On January 25, 2018, the Task Force's meeting included panels on identification, registries, and licensing and international perspectives. These two meetings responded to stakeholder comments that the government can play a useful role by facilitating dialogues between and among industry sectors and by convening stakeholder groups to make recommendations on specific issues. They focused on initiatives in this space that relate to standards development, interoperability across digital registries, and cross-industry collaboration, to understand the current state of affairs, identify challenges, and discuss paths forward. They also provided an opportunity to explore potential approaches to the future adoption and integration of relevant emerging technologies into the online marketplace, such as blockchain technology and open-source platforms.

The Task Force notes that the United States Copyright Office is engaged in several endeavors that may inform this March event. In support of its statutory work, the Copyright Office is currently engaged in: (1) Developing a new enterprise copyright system to improve the current registration system and revolutionize the current paper-based system of recordation of documents; [2] (2) continuing its multiyear project converting the extensive, paper-based pre-1978 historical records into digital format for improved public access, enhanced online search capabilities, and continued record preservation, including releases of a Virtual Card Catalog proof of concept; [3] (3) implementing various elements of the new Music Modernization Act (MMA), a major legislative change updating the music licensing system; [4] (4) producing policy studies that address issues affecting online licensing and related issues, ranging from recordation [5] to music licensing [6] to the right of making available [7] to visual works; [8] and (5) issuing notices of inquiry, notices of proposed rulemakings and final rules on numerous areas addressing registration [9] and recordation practices in order to improve both office practices and the copyright marketplace.[10]

B. The Focus of This Meeting

In the previous public comments and meetings, the Task Force heard from stakeholders that the government can play a useful role by facilitating dialogues between and among industry sectors and by convening stakeholder groups to make recommendations on specific issues. Based on this feedback, the Task Force is organizing this meeting to build on the work of the prior meetings and continue to facilitate constructive, cross-industry dialogue about ways to promote a robust and collaborative online marketplace for

[1] The Green Paper is *available at http://www.uspto.gov/sites/default/files/news/publications/copyrightgreenpaper.pdf.*

[2] U.S. Copyright Office, Modified U.S. Copyright Office Provisional IT Modernization Plan: Analysis of Shared Services, Support Requirements, and Modernization Efforts (2017), at *https://www.copyright.gov/reports/itplan/modified-modernization-plan.pdf; see also* the Office's web page on Copyright Modernization at *https://www.copyright.gov/copyright-modernization/.*

[3] U.S. Copyright Office, Virtual Card Catalog (VCC) Proof of Concept, at *https://vcc.copyright.gov/.*

[4] U.S. Copyright Office, Orrin G. Hatch–Bob Goodlatte Music Modernization Act, at *https://www.copyright.gov/music-modernization/.*

[5] U.S. Copyright Office, Transforming Document Recordation at the United States Copyright Office (2014), at *https://www.copyright.gov/docs/recordation/recordation-report.pdf.*

[6] U.S. Copyright Office, Copyright and the Music Marketplace (2015), at *https://www.copyright.gov/policy/musiclicensingstudy/copyright-and-the-music-marketplace.pdf.*

[7] U.S. Copyright Office, The Making Available Right in the United States (2016), at *https://www.copyright.gov/docs/making_available/making-available-right.pdf.*

[8] U.S. Copyright Office, Letters to the House and Senate Judiciary Committees on Copyright and Visual Works: The Legal Landscape of Opportunities and Challenges (2019), at *https://www.copyright.gov/policy/visualworks/.*

[9] *See* U.S. Copyright Office, Registration Modernization, 83 FR 52336 (Oct. 17, 2018), *see* also at *https://www.copyright.gov/rulemaking/reg-modernization/.*

[10] For a list of the U.S. Copyright Office's open and closed rulemakings, *see* the Copyright Office's web page at *https://www.copyright.gov/rulemaking/.*

copyrighted works. We will discuss the potential for interoperability across digital registries and standards work in this field, and consider how the relevant emerging technologies (*e.g.,* blockchain technology, artificial intelligence) are developing. We will also explore potential approaches to their future adoption and integration into the online marketplace.

Topics to be covered will include: (1) Initiatives to advance the digital content marketplace, with a focus on standards, interoperability, and digital registries and database initiatives to track ownership and usage rights; (2) innovative technologies designed to improve the ways consumers access and use different types of digital content (*e.g.,* photos, film, music); (3) ways that different sectors can collaborate to promote a robust interconnected digital content marketplace; and (4) the role of government in facilitating such initiatives and technological development. Members of the public will have opportunities to participate at the meeting.

C. Public Meeting

On March 28, 2019, the Task Force will hold a public meeting to hear stakeholder input and to consider future work in this area. The event will facilitate participation and dialogue among interested stakeholders, including creators, right holders, and online services that produce and distribute copyright protected digital content, as well as technologists, cultural heritage institutions, public interest groups, and academics.

The meeting will be webcast. The agenda and webcast information will be available no later than the week prior to the meeting on the internet Policy Task Force website, at *https://www.ntia.doc.gov/internetpolicytaskforce,* and the USPTO's website at *http://bit.ly/2HcY5VU.*

The meeting will be open to members of the public to attend, space permitting, on a first-come, first-served basis. Online registration for the meeting, which is not mandatory, is available at *http://bit.ly/2HcY5VU.* The meeting will be physically accessible to people with disabilities. Individuals requiring accommodation, such as sign language interpretation, real-time captioning of the webcast or other ancillary aids, should communicate their needs to Kortney Hammonds, Office of Policy and International Affairs, United States Patent and Trademark Office, Madison Building, 600 Dulany Street, Alexandria, Virginia 22314; telephone (571) 272–9300; email *Kortney.Hammonds@USPTO.gov,* at least seven business days prior to the meeting.

Dated: March 14, 2019.

Andrei Iancu,

Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office, United States Patent and Trademark Office.

David J. Redl,

Assistant Secretary for Communications and Information, National Telecommunications and Information Administration.

[FR Doc. 2019–05116 Filed 3–18–19; 8:45 am]

BILLING CODE 3510–16–P

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meetings

TIME AND DATE: 10:00 a.m., Monday, March 25, 2019.

PLACE: CFTC Headquarters, Lobby-Level Hearing Room, Three Lafayette Centre, 1155 21st Street NW, Washington, DC.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commodity Futures Trading Commission (''Commission'' or ''CFTC'') will hold this meeting to consider the following matters:

- Amendment to the Comparability Determination for Japan: Margin Requirements for Uncleared Swaps for Swap Dealers and Major Swap Participants;
- Comparability Determination for Australia: Margin Requirements for Uncleared Swaps for Swap Dealers and Major Swap Participants;
- Final Rule Amending Regulations on Segregation of Assets Held as Collateral in Uncleared Swap Transactions;
- Final Rule Regarding the De Minimis Exception to the Swap Dealer Definition—Swaps Entered into by Insured Depository Institutions in Connection with Loans to Customers;
- Final Rule Regarding Financial Surveillance Examination Program Requirements for Self-Regulatory Organizations;
- Brexit-Related Updates to Memoranda of Understanding and Related Side Letters with the United Kingdom Financial Conduct Authority; and
- Interim Final Rule Regarding Margin Requirements for Uncleared Swaps for Swap Dealers and Major Swap Participants in Light of Brexit.

The agenda for this meeting will be available to the public and posted on the Commission's website at *https://www.cftc.gov.* In the event that the time, date, or place of this meeting changes, an announcement of the change, along with the new time, date, or place of the meeting, will be posted on the Commission's website.

CONTACT PERSON FOR MORE INFORMATION: Christopher Kirkpatrick, Secretary of the Commission, 202–418–5964.

Dated: March 14, 2019.

Christopher Kirkpatrick,

Secretary of the Commission.

[FR Doc. 2019–05221 Filed 3–15–19; 11:15 am]

BILLING CODE 6351–01–P

CONSUMER PRODUCT SAFETY COMMISSION

Commission Agenda and Priorities; Notice of Hearing

AGENCY: U.S. Consumer Product Safety Commission.

ACTION: Notice of public hearing.

SUMMARY: The U.S. Consumer Product Safety Commission (Commission) will conduct a public hearing to receive views from all interested parties about the Commission's agenda and priorities for fiscal year 2020, which begins on October 1, 2019, and for fiscal year 2021, which begins on October 1, 2020. We invite members of the public to participate. Written comments and oral presentations concerning the Commission's agenda and priorities for fiscal years 2020 and 2021 will become part of the public record.

DATES: The hearing will begin at 10 a.m. on May 1, 2019, and will conclude the same day. Requests to make oral presentations and the written text of any oral presentations must be received by the Division of the Secretariat not later than 5 p.m. Eastern Daylight Time (EDT) on April 17, 2019. The Commission will accept written comments as well. These also must be received by the Division of the Secretariat not later than 5 p.m. EDT on April 17, 2019.

ADDRESSES: The hearing will be in the Hearing Room, 4th Floor of the Bethesda Towers Building, 4330 East-West Highway, Bethesda, MD 20814. Requests to make oral presentations, and texts of oral presentations and written comments should be captioned, ''Agenda and Priorities FY 2020 and/or 2021,'' and sent by electronic mail (email) to: *cpsc-os@cpsc.gov,* or mailed or delivered to the Division of the Secretariat, U.S. Consumer Product Safety Commission, 4330 East-West Highway, Bethesda, MD 20814. Requests and written comments must be received no later than 5 p.m. EDT on April 17, 2019.

FOR FURTHER INFORMATION CONTACT: For information about the hearing, or to request an opportunity to make an oral presentation, please send an email, call, or write Alberta E. Mills, Division of the Secretariat, U.S. Consumer Product Safety Commission, 4330 East-West Highway, Bethesda, MD 20814; email: *cpsc-os@cpsc.gov*; telephone: (301) 504–7923; facsimile: (301) 504–0127. An electronic copy of the CPSC's budget request for fiscal year 2020 and the CPSC's 2018–2022 Strategic Plan can be found at: *www.cpsc.gov/about-cpsc/agency-reports/performance-and-budget.*

SUPPLEMENTARY INFORMATION:

I. Background

Section 4(j) of the Consumer Product Safety Act (CPSA) (15 U.S.C. 2053(j)) requires the Commission to establish an agenda for action under the laws the Commission administers, and to the extent feasible, select priorities for action at least 30 days before the beginning of each fiscal year. Section 4(j) of the CPSA provides further that before establishing its agenda and priorities, the Commission conduct a public hearing and provide an opportunity for the submission of comments.

II. Oral Presentations and Submission of Written Comments

The Commission is preparing the agency's fiscal year 2020 Operating Plan and fiscal year 2021 Congressional Budget Request. Fiscal year 2020 begins on October 1, 2019, and fiscal year 2021 begins on October 1, 2020. Through this notice, the Commission invites the public to comment on the following questions:

1. What are the priorities the Commission should consider emphasizing and dedicating resources toward in the fiscal year 2020 Operating Plan and/or the fiscal year 2021 Congressional Budget Request?
2. What activities should the Commission consider deemphasizing in the fiscal year 2020 Operating Plan and/or the fiscal year 2021 Congressional Budget Request?
3. What retrospective review of rules should the Commission consider in the fiscal year 2020 Operating Plan and/or the fiscal year 2021 Congressional Budget Request?
4. The CPSC's programs will align with the strategic goals outlined in the CPSC's 2018–2022 Strategic Plan. The CPSC's fiscal year 2020 Budget Request is based on four agency priorities: (1) Focusing the agency's resources on the highest-priority consumer product safety risks; (2) continuing to support import surveillance by operating, maintaining, and developing the Risk Assessment Methodology (RAM) system to identify and stop noncompliant imported products from entering the U.S. marketplace; (3) emphasizing collaboration, outreach, and education by engaging all stakeholders through forums, advisory groups, seminars, webinars, technical stakeholder-to-government discussions, and workshops; and (4) expanding the sources and types of data analysis used to identify and assess hazards and inform solutions to address identified hazards. The Commission requests comments on the priorities as presented in the FY 2020 Budget Request. The CPSC's Budget Request for fiscal year 2020 can be found at: *www.cpsc.gov/about-cpsc/agency-reports/performance-and-budget.* The Commission also requests comments on whether the Commission should consider making any changes or adjustments to the agency's proposed or ongoing safety standards activities, regulation and enforcement efforts in fiscal years 2020 and 2021 (16 CFR 1009.8). Comments are welcome on whether particular action items should be higher priority than others, should not be included, or should be added to the fiscal year 2020 and/or fiscal year 2021 agendas.

Persons who desire to make oral presentations at the hearing on May 1, 2019 should send an email, call, or write Alberta E. Mills, Division of the Secretariat, U.S. Consumer Product Safety Commission, 4330 East-West Highway, Bethesda, MD 20814; email: *cpsc-os@cpsc.gov*; telephone: (301) 504–7923; facsimile (301) 504–0127 not later than 5 p.m. EDT on April 17, 2019. Requests to make oral presentations and texts of the presentation must be received not later than 5 p.m. EDT on April 17, 2019. Presentations should be limited to approximately 10 minutes. The Commission reserves the right to impose further time limitations on all presentations and further restrictions to avoid duplication of presentations.

If you do not want to make an oral presentation, but would like to provide written comments, you may do so. Please submit written comments in the manner described in the previous paragraph. Written comments must be received no later than 5 p.m. EDT on April 17, 2019.

Alberta E. Mills,

Secretary, U.S. Consumer Product Safety Commission.

[FR Doc. 2019–05102 Filed 3–18–19; 8:45 am]

BILLING CODE 6355–01–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Innovation Board; Notice of Federal Advisory Committee Meeting; Amendment

AGENCY: Under Secretary of Defense for Research and Engineering, Department of Defense.

ACTION: Notice of Federal Advisory Committee meeting; amendment.

SUMMARY: The Department of Defense (DoD) is publishing this notice to announce a change in location for the Federal Advisory Committee meeting of the Defense Innovation Board to be held on Thursday, March 21, 2019. Registration links remain open to allow for additional participation. Participants who have previously registered do not need to re-register.

DATES: Open to the public Thursday, March 21, 2019 from 9:30 a.m. to 12:30 p.m.

ADDRESSES: The public meeting will be held at the National Defense University, Lincoln Hall, Fort Lesley J. McNair, 260 5th Avenue, Building 64, Washington, DC 20319. The public meeting will be live streamed for those who are unable to physically attend the meeting. (A government issued identification card must be presented to gate security for entrance to Fort McNair and access to the meeting. See guidance in the **SUPPLEMENTARY INFORMATION** section.).

FOR FURTHER INFORMATION CONTACT: CAPT Chris Brunett, (703) 697–4337 (Voice), *christopher.w.brunett.mil@mail.mil* (Email). Mailing address is Defense Innovation Board, 9010 Defense Pentagon, Room 5E572, Washington, DC 20301–9010. Website: *http://innovation.defense.gov.* The most up-to-date changes to the meeting agenda can be found on the website.

SUPPLEMENTARY INFORMATION: Due to circumstances beyond the control of the Department of Defense (DoD) and the Designated Federal Officer, the Defense Innovation Board was unable to provide public notification required by 41 CFR 102–3.150(a) concerning its need to amend the previously-published meeting notice about the March 21, 2019 meeting of the Defense Innovation Board. Accordingly, the Advisory Committee Management Officer for the Department of Defense, pursuant to 41 CFR 102–3.150(b), waives the 15-calendar day notification requirement.

Change of Meeting Location: On February 15, 2019, DoD published a notice in the **Federal Register** (84 FR 4454–4455) announcing the a Federal Advisory Committee meeting of the

Defense Innovation Board. This notice announces a change in location for the public meeting to be held on March 21, 2019. All other information, including times and topics to be addressed announced in the February 15, 2019 notice, remain the same. This meeting is being held under the provisions of the Federal Advisory Committee Act (FACA) of 1972 (5 U.S.C., Appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR 102–3.140 and 102–3.150.

Meeting Accessibility: Pursuant to Federal statutes and regulations (the FACA, the Sunshine Act, and 41 CFR 102–3.140 through 102–3.165) and the availability of space, the meeting is open to the public from 9:30 a.m. to 12:30 p.m. Seating is on a first-come basis. Members of the public wishing to attend the meeting or wanting to receive a link to the live stream webcast should register on the DIB website, *http://innovation.defense.gov,* no later than March 18, 2019.

To access Lincoln Hall on Fort McNair, attendees are highly encouraged to arrive via taxi to the visitors entrance on 2nd St. SW (closest intersection: Q St. SW). Walking distance from the 2nd St. SW gate to Lincoln Hall is about five minutes. Limited parking is available at Lincoln Hall for attendees. Metro transportation is available (Waterfront Metro stop—1 mile), and all RSVP names will be provided ahead of time to security personnel at the 2nd St. SW visitors gate. Those who RSVP past the deadline will still be able to attend the meeting, but will be delayed at the gate for a security check. Important: All attendees must bring a government photo ID such as a driver's license to access Fort McNair and attend the meeting. Members of the media should RSVP to Lieutenant Colonel Michelle Baldanza, U.S. Army, Office of the Secretary of Defense Public Affairs, at *michelle.l.baldanza.mil@mail.mil.*

Special Accommodations: Individuals requiring special accommodations to access the public meeting should contact the Designated Federal Officer (DFO), see the **FOR FURTHER INFORMATION CONTACT** section for contact information, no later than March 7, 2019, so that appropriate arrangements can be made.

Written Statements: Pursuant to section 10(a)(3) of the FACA and 41 CFR 102–3.140, the public or interested organizations may submit written comments to the DIB about its approved agenda pertaining to this meeting or at any time regarding the DIB's mission. Individuals submitting a written statement must submit their statement to the DFO (see the **FOR FURTHER INFORMATION CONTACT** section for contact information). Written comments that do not pertain to a scheduled meeting may be submitted at any time. However, if individual comments pertain to a specific topic being discussed at the planned meeting, then such comments must be received in writing not later than March 18, 2019. The DFO will compile all written submissions and provide them to DIB members for consideration.

Oral Presentations: Individuals wishing to make an oral statement to the DIB at the public meeting may be permitted to speak for up to two minutes. Anyone wishing to speak to the DIB should submit a request by email at *osd.innovation@mail.mil* not later than March 18, 2019 for planning. Requests for oral comments should include a copy or summary of planned remarks for archival purposes. Individuals may also be permitted to submit a comment request at the public meeting; however, depending on the number of individuals requesting to speak, the schedule may limit participation. Webcast attendees will be provided instructions with the live stream link if they wish to submit comments during the open meeting.

Dated: March 14, 2019.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2019–05177 Filed 3–18–19; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Availability of Record of Decision for the Final Environmental Impact Statement for EA–18G ''Growler'' Airfield Operations at Naval Air Station Whidbey Island Complex, Island County, WA

AGENCY: Department of the Navy, DoD.

ACTION: Notice.

SUMMARY: The United States Department of the Navy (Navy), after carefully weighing the strategic, operational, and environmental consequences of the proposed action, announces its decision to implement Alternative 2A of the Final Environmental Impact Statement (EIS) for EA–18G ''Growler'' Airfield Operations at Naval Air Station (NAS) Whidbey Island Complex, WA. Alternative 2A is the Navy's Preferred Alternative and will enable the Navy to augment its existing Electronic Attack community at NAS Whidbey Island Complex with additional aircraft in order to provide Combatant Commanders with expanded electronic attack capabilities to support the national defense.

SUPPLEMENTARY INFORMATION: Alternative 2A adds 36 EA–18G operational aircraft at NAS Whidbey Island, stations additional personnel and their family members at the NAS Whidbey Island complex and in the surrounding community, constructs and renovates facilities at Ault Field, increases airfield operations at both Ault Field and Outlying Landing Field (OLF) Coupeville, and changes the distribution of field carrier landing practice (FCLP) to 20 percent occurring at Ault Field and 80 percent occurring at OLF Coupeville. The implementation of Alternative 2A includes measures intended to reduce noise impacts in the community, including the mitigation measures identified in Appendix H of the Final EIS and the use of Precision Landing Mode to reduce the overall number of FCLPs compared to the number proposed in the Draft EIS. The complete text of the Record of Decision (ROD) is available on the project website at *http://www.whidbeyeis.com,* along with the Growler Final EIS dated September 2018, and supporting documents. Single copies of the ROD are available upon request by contacting: Naval Facilities Engineering Command Atlantic, Attn: Code EV21/SS (Growler EA–18G EIS project manager), 6506 Hampton Boulevard, Norfolk, VA 23508.

Dated: March 14, 2019.

M.S. Werner,

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

[FR Doc. 2019–05120 Filed 3–18–19; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2019–ICCD–0027]

Agency Information Collection Activities; Comment Request; High School and Beyond 2020 (HS&B:20) Base-Year Full-Scale Study Recruitment and Field Test

AGENCY: National Center for Education Statistics (NCES), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ED is proposing a revision of an existing information collection.

DATES: Interested persons are invited to submit comments on or before May 20, 2019.

ADDRESSES: To access and review all the documents related to the information collection listed in this notice, please use *http://www.regulations.gov* by searching the Docket ID number ED–2019–ICCD–0027. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. If the regulations.gov site is not available to the public for any reason, ED will temporarily accept comments at *ICDocketMgr@ed.gov*. Please include the docket ID number and the title of the information collection request when requesting documents or submitting comments. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted*. Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 550 12th Street SW, PCP, Room 9089, Washington, DC 20202–0023.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Kashka Kubzdela, 202–245–7377 or email *NCES.Information.Collections@ed.gov*.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: High School and Beyond 2020 (HS&B:20) Base-Year Full-Scale Study Recruitment and Field Test.

OMB Control Number: 1850–0944.

Type of Review: A revision of an existing information collection.

Respondents/Affected Public: Individuals or Households.

Total Estimated Number of Annual Responses: 52,429.

Total Estimated Number of Annual Burden Hours: 34,763.

Abstract: The High School and Beyond 2020 study (HS&B:20) will be the sixth in a series of longitudinal studies at the high school level conducted by the National Center for Education Statistics (NCES), within the Institute of Education Sciences (IES) of the U.S. Department of Education. HS&B:20 will follow a nationally-representative sample of ninth grade students from the start of high school in the fall of 2020 to the spring of 2024 when most will be in twelfth grade. The study sample will be freshened in 2024 to create a nationally representative sample of twelfth-graders. A high school transcript collection and additional follow-up data collections beyond high school are also planned. The NCES secondary longitudinal studies examine issues such as students' readiness for high school; the risk factors associated with dropping out of high school; high school completion; the transition into postsecondary education and access/choice of institution; the shift from school to work; and the pipeline into science, technology, engineering, and mathematics (STEM). They inform education policy by tracking long-term trends and elucidating relationships among student, family, and school characteristics and experiences. HS&B:20 will follow the Middle Grades Longitudinal Study of 2017/18 (MGLS:2017) which followed the Early Childhood Longitudinal Study, Kindergarten Class of 2010–11 (ECLS–K:2011), thereby allowing for the study of all transitions from elementary school through high school and into higher education and/or the workforce. HS&B:20 will include surveys of students, parents, students' math teachers, counselors, and administrators, plus a student assessment in mathematics and reading and a brief hearing and vision test. In preparation for the HS&B:20 base-year full scale study, scheduled to take place in the fall of 2020, this request is to conduct the HS&B:20 base year field test data collection and the base year full scale sampling and state, school district, school, and parent recruitment activities, both scheduled to begin in the fall of 2019. These activities include collecting student rosters and selecting the base-year full scale sample. Approval for the base-year field test recruitment activities was received in December 2018 (OMB# 1850–0944 v.1). Approval for the base-year full scale study data collection will be requested in a separate submission in early 2020.

Dated: March 14, 2019.

Stephanie Valentine,

PRA Clearance Coordinator, Information Collection Clearance Program, Information Management Branch, Office of the Chief Information Officer.

[FR Doc. 2019–05117 Filed 3–18–19; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

National Coal Council; Notice of Open Meetings

AGENCY: Department of Energy.

ACTION: Notice of open meetings.

SUMMARY: This notice announces a meeting of the National Coal Council (NCC). The Federal Advisory Committee Act requires that public notice of these meetings be announced in the **Federal Register**.

DATES: Thursday, April 11, 2019, 4:00 p.m.–9:00 p.m. Friday, April 12, 2019, 8:30 a.m.–12:15 p.m.

ADDRESSES: Washington Marriott Wardman Park Hotel; 2650 Woodley Park Road NW, Washington, DC 20008.

FOR FURTHER INFORMATION CONTACT: Thomas Sarkus, U.S. Department of Energy, National Energy Technology Laboratory, Mail Stop 920–125, 626 Cochrans Mill Road, Pittsburgh, PA 15236–0940; Telephone: 412–386–5981.

SUPPLEMENTARY INFORMATION:

Purpose of the Council: The National Coal Council provides advice and recommendations to the Secretary of Energy, on general policy matters relating to coal and the coal industry.

Purpose of Meeting: The 2019 Spring Meeting of the National Coal Council.

Tentative Agenda

Thursday, April 11, 2019, 4:00 p.m.–9:00 p.m.

1. Reception and dinner from 4:00 p.m. to 8:00 p.m. RSVP required. Main part of the program will begin at 8:00 p.m.

2. At 8:00 p.m., call to order and opening remarks by Steven Winberg,

NCC Designated Federal Officer & Assistant Secretary for Fossil Energy, U.S. Department of Energy.

3. Keynote Remarks by Mary Neumayr, Chair, White House Council on Environmental Quality.

4. Closing Remarks by Steven Winberg, NCC Designated Federal Officer & Assistant Secretary for Fossil Energy, U.S. Department of Energy.

5. Adjourn for the day.

Friday, April 12, 2019, 8:30 a.m.–12:15 p.m.

6. Call to order and opening remarks by Steven Winberg, NCC Designated Federal Officer & Assistant Secretary for Fossil Energy, U.S. Department of Energy.

7. Election of NCC Chair and Vice-chair.

8. Keynote remarks by Secretary Rick Perry (invited), U.S. Department of Energy.

NCC Report presentation by report chair Randall W. Atkins, Chairman & CEO of Ramaco Coal LLC and NCC membership vote on report. The draft report, titled ''*Coal in a New Carbon Age: Powering a Wave of Innovation in Advanced Products and Manufacturing,*'' is available online at: *https://www.nationalcoalcouncil.org/studies/2019/NCC-COAL-IN-A-NEW-CARBON-AGE.pdf.*

9. Announcement of election results for NCC Chair and Vice-chair.

10. Presentation by Seth Schwartz, President of Energy Ventures Analysis, on The Role of U.S. Coal in National Security.

11. Presentation by William West, President of Arq Limited, on Microfine Hydrocarbon: A Novel Approach to Upgrading Coal into Higher-Value Oil Products.

12. Presentation by Peter Reineck of Peter Reineck Associates Limited representing Dr. Ing. Massimo Malavasi of Itea S.p.A. on Improving Coal Economics: Retrofitting Flameless Pressurized Oxy-Combustion with CO_2 Capture.

13. Public Comment Period.

14. Other Business.

15. Adjourn.

Attendees are requested to register in advance for the meeting at: *http://www.nationalcoalcouncil.org/page-NCC-Events.html.*

Public Participation: The meeting is open to the public. If you would like to file a written statement with the Council, you may do so either before or after the meeting. If you would like to make oral statements regarding any item on the agenda, you should contact Thomas Sarkus, (412) 386–5981 or *thomas.sarkus@netl.doe.gov* (email). You must make your request for an oral statement at least 5 business days before the meeting. Reasonable provision will be made to include oral statements on the scheduled agenda. The Chairperson of the Council will lead the meeting in a manner that facilitates the orderly conduct of business. Oral statements are limited to 10-minutes per organization and per person.

Minutes: A link to the transcript of the meeting will be posted on the NCC website at: *http://www.nationalcoalcouncil.org/.*

Signed in Washington, DC, on March 13, 2019.

LaTanya Butler,

Deputy Committee Management Officer.

[FR Doc. 2019–05104 Filed 3–18–19; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Northern New Mexico

AGENCY: Office of Environmental Management, Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a combined meeting of the Environmental Monitoring and Remediation Committee and Waste Management Committee of the Environmental Management Site-Specific Advisory Board (EM SSAB), Northern New Mexico (known locally as the Northern New Mexico Citizens' Advisory Board [NNMCAB]). The Federal Advisory Committee Act requires that public notice of this meeting be announced in the **Federal Register**. This meeting has been scheduled due to the inclement weather cancellation of the March 13, 2019 meeting.

DATES: Wednesday, April 10, 2019 1:00 p.m.–4:00 p.m.

ADDRESSES: NNMCAB Office, 94 Cities of Gold Road, Pojoaque, NM 87506.

FOR FURTHER INFORMATION CONTACT: Menice Santistevan, Northern New Mexico Citizens' Advisory Board, 94 Cities of Gold Road, Santa Fe, NM 87506. Phone (505) 995–0393; Fax (505) 989–1752 or email: *menice.santistevan@em.doe.gov.*

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE–EM and site management in the areas of environmental restoration, waste management, and related activities.

Purpose of the Environmental Monitoring and Remediation Committee (EM&R): The EM&R Committee provides a citizens' perspective to NNMCAB on current and future environmental remediation activities resulting from historical Los Alamos National Laboratory (LANL) operations and, in particular, issues pertaining to groundwater, surface water and work required under the New Mexico Environment Department Order on Consent. The EM&R Committee will keep abreast of DOE–EM and site programs and plans. The committee will work with the NNMCAB to provide assistance in determining priorities and the best use of limited funds and time. Formal recommendations will be proposed when needed and, after consideration and approval by the full NNMCAB, may be sent to DOE–EM for action.

Purpose of the Waste Management (WM) Committee: The WM Committee reviews policies, practices and procedures, existing and proposed, so as to provide recommendations, advice, suggestions and opinions to the NNMCAB regarding waste management operations at the Los Alamos site.

Tentative Agenda

- Call to Order
- Welcome and Introductions
- Approval of Agenda and Meeting Minutes of November 7, 2018 and January 30, 2019
- Old Business
  - Report from Chair
  - Report on Waste Management Symposia
  - Other Items
- New Business
- Discussion on Outyear Campaign Priorities for Consent Order Appendix B and Annual Budget
- Break
- Public Comment Period
- Consideration and Action on Draft Recommendation 2019–01, Periodic Reporting of EM Activities
- Update from New Mexico Environment Department
- Update from EM-Los Alamos Field Office
  - Recognition of Outgoing Members
  - Other Items
- Update from NNMCAB Deputy Designated Federal Officer and Executive Director
- Wrap-Up Comments from NNMCAB Members
- Adjourn

Public Participation: The meeting is open to the public. The NNMCAB's Committees welcome the attendance of the public at their combined committee meeting and will make every effort to accommodate persons with physical disabilities or special needs. If you

require special accommodations due to a disability, please contact Menice Santistevan at least seven days in advance of the meeting at the telephone number listed above. Written statements may be filed with the Committees either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Menice Santistevan at the address or telephone number listed above. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Individuals wishing to make public comments will be provided a maximum of five minutes to present their comments.

Minutes: Minutes will be available by writing or calling Menice Santistevan at the address or phone number listed above. Minutes and other Board documents are on the internet at: *http://energy.gov/em/nnmcab/meeting-materials.*

Signed in Washington, DC on March 13, 2019.

LaTanya Butler,

Deputy Committee Management Officer.

[FR Doc. 2019–05035 Filed 3–18–19; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. IC19–9–000]

Commission Information Collection Activities (FERC–725k); Comment Request

AGENCY: Federal Energy Regulatory Commission, Department of Energy.

ACTION: Comment request.

SUMMARY: In compliance with the requirements of the Paperwork Reduction Act of 1995, the Federal Energy Regulatory Commission (Commission or FERC) is submitting its information collection FERC–725K (Mandatory Reliability Standards for the SERC Region) to the Office of Management and Budget (OMB) for review of the information collection requirements. Any interested person may file comments directly with OMB and should address a copy of those comments to the Commission as explained below. The Commission previously published a Notice in the **Federal Register** on December 10, 2018 (83 FR 63494), requesting public comments. The Commission received no comments and is making this notation in its submittal to OMB.

DATES: Comments on the collection of information are due by April 18, 2019.

ADDRESSES: Comments filed with OMB, identified by the OMB Control No. 1902–0260, should be sent via email to the Office of Information and Regulatory Affairs: *oira_submission@omb.gov.* Attention: Federal Energy Regulatory Commission Desk Officer.

A copy of the comments should also be sent to the Commission, in Docket No. IC19–9–000, by either of the following methods:

- *eFiling at Commission's Website: http://www.ferc.gov/docs-filing/efiling.asp.*
- *Mail/Hand Delivery/Courier:* Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE, Washington, DC 20426.

Instructions: All submissions must be formatted and filed in accordance with submission guidelines at: *http://www.ferc.gov/help/submission-guide.asp.* For user assistance contact FERC Online Support by email at *ferconlinesupport@ferc.gov,* or by phone at: (866) 208–3676 (toll-free), or (202) 502–8659 for TTY.

Docket: Users interested in receiving automatic notification of activity in this docket or in viewing/downloading comments and issuances in this docket may do so at *http://www.ferc.gov/docs-filing/docs-filing.asp.*

FOR FURTHER INFORMATION CONTACT: Ellen Brown may be reached by email at *DataClearance@FERC.gov,* by telephone at (202) 502–8663, and by fax at (202) 273–0873.

SUPPLEMENTARY INFORMATION:

Title: Mandatory Reliability Standards for the SERC Region.

OMB Control No.: 1902–0260.

Type of Request: Three-year extension of the FERC–725K information collection requirements with no changes to the current reporting requirements.

Abstract: Section 215 of the Federal Power Act (FPA) requires a Commission-certified Electric Reliability Organization (ERO) to develop mandatory and enforceable Reliability Standards, which are subject to Commission review and approval. Once approved, the Reliability Standards may be enforced by NERC, subject to Commission oversight, or by the Commission independently.

Reliability Standards that NERC proposes to the Commission may include Reliability Standards that are proposed by a Regional Entity to be effective in that region. In Order No. 672, the Commission noted that:

As a general matter, we will accept the following two types of regional differences, provided they are otherwise just, reasonable, not unduly discriminatory or preferential and in the public interest, as required under the statute: (1) A regional difference that is more stringent than the continent-wide Reliability Standard, including a regional difference that addresses matters that the continent-wide Reliability Standard does not; and (2) a regional Reliability Standard that is necessitated by a physical difference in the Bulk-Power System.

When NERC reviews a regional Reliability Standard that would be applicable on an interconnection-wide basis and that has been proposed by a Regional Entity organized on an interconnection-wide basis, NERC must rebuttably presume that the regional Reliability Standard is just, reasonable, not unduly discriminatory or preferential, and in the public interest. In turn, the Commission must give ''due weight'' to the technical expertise of NERC and of a Regional Entity organized on an interconnection-wide basis.

On April 19, 2007, the Commission accepted delegation agreements between NERC and each of the eight Regional Entities. In the order, the Commission accepted SERC as a Regional Entity organized on less than an interconnection-wide basis. As a Regional Entity, SERC oversees Bulk-Power System reliability within the SERC Region, which covers a geographic area of approximately 560,000 square miles in a sixteen-state area in the southeastern and central United States (all of Missouri, Alabama, Tennessee, North Carolina, South Carolina, Georgia, Mississippi, and portions of Iowa, Illinois, Kentucky, Virginia, Oklahoma, Arkansas, Louisiana, Texas and Florida). The SERC Region is currently geographically divided into five subregions that are identified as Southeastern, Central, VACAR, Delta, and Gateway.

Type of Respondents: Entities registered with the North American Electric Reliability Corporation (within the SERC region).

Estimate of Annual Burden:[1] The Commission estimates the annual reporting burden and cost for the information collection as:

[1] ''Burden'' is defined as the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. For further explanation of what is included in the information collection burden, refer to 5 Code of Federal Regulations 1320.3.

FERC–725K—MANDATORY RELIABILITY STANDARDS FOR THE SERC REGION

	Number of respondents (1)	Annual number of responses per respondent (2)	Total number of responses (1) * (2) = (3)	Average burden hrs. & cost per response [2] (4)	Total annual burden hours & total annual cost (3) * (4) = (5)	Cost per respondent ($) (5) ÷ (1)
PCs: Design and Document Automatic UFLS Program.	[3] 21	1	21	8 hrs.; $535.20	168 hrs.; $11,239.20	$535.20
PCs: Provide Documentation and Data to SERC.	[3] 21	1	21	16 hrs.; $1,070.40	336 hrs.; $22,478.40	1,070.40
GOs: Provide Documentation and Data to SERC.	[4] 104	1	104	16 hrs.; $1,070.40	1,664 hrs.; $111,321.60	1,070.40
GOs: Record Retention	[4] 104	1	104	4 hrs.; $267.60	416 hrs.; $27,830.40	267.60
Total			125		2,584 hrs.; $172,869.60	2,943.60

Comments: Comments are invited on: (1) Whether the collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Dated: March 11, 2019.

Kimberly D. Bose,

Secretary.

[FR Doc. 2019–05047 Filed 3–18–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2814–025]

Great Falls Hydroelectric Company; Notice of Application Tendered for Filing With The Commission and Soliciting Additional Study Requests and Establishing Procedural Schedule for Relicensing and a Deadline for Submission of Final Amendments

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* New Major License.

b. *Project No.:* 2814–025.

c. *Date Filed:* February 28, 2019.

d. *Applicant:* Great Falls Hydroelectric Company and the City of Paterson, New Jersey, as co-licensees.

e. *Name of Project:* Great Falls Hydroelectric Project.

f. *Location:* On the Passaic River, near the City of Paterson, Passaic County, New Jersey. The project does not occupy federal land.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791 (a)–825 (r).

h. *Applicant Contact:* Mr. Robert Gates, Senior Vice President of Operations, Eagle Creek Renewable Energy, 65 Madison Avenue, Suite 500, Morristown, NJ 07960; (973) 998–8400; email—*bob.gates@eaglecreekre.com* and/or Ben-David Seligman, 2nd Assistant Corp. Counsel, City of Paterson, 155 Market Street, Paterson, NJ; (973) 321–1366; email—*bseligman@patersonnj.gov.*

i. *FERC Contact:* Christopher Millard at (202) 502–8256; or email at *christopher.millard@ferc.gov.*

j. Cooperating agencies: Federal, state, local, and tribal agencies with jurisdiction and/or special expertise with respect to environmental issues that wish to cooperate in the preparation of the environmental document should follow the instructions for filing such requests described in item l below. Cooperating agencies should note the Commission's policy that agencies that cooperate in the preparation of the environmental document cannot also intervene. See, 94 FERC ¶ 61,076 (2001).

k. Pursuant to section 4.32(b)(7) of 18 CFR of the Commission's regulations, if any resource agency, Indian Tribe, or person believes that an additional scientific study should be conducted in order to form an adequate factual basis for a complete analysis of the application on its merit, the resource agency, Indian Tribe, or person must file a request for a study with the Commission not later than 60 days from the date of filing of the application, and serve a copy of the request on the applicant.

l. Deadline for filing additional study requests and requests for cooperating agency status: April 29, 2019.

The Commission strongly encourages electronic filing. Please file additional study requests and requests for cooperating agency status using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. The first page of any filing should include docket number P–2814–025.

m. This application is not ready for environmental analysis at this time.

n. The existing project works consist of: (1) The Society for the Establishment of Useful Manufactures dam, an overflow granite stone gravity structure about 315 feet long, with a maximum height of 15 feet and having a crest elevation of 114.6 feet mean sea level (msl); (2) a reservoir with a surface area of 202 acres and a storage capacity of 1,415 acre-feet at elevation 114.6 feet msl; (3) a forebay inlet structure; (4) a headgate control structure containing three trashracks and three steel gates; (5) three penstocks, each 8.5 feet in diameter and approximately 55 feet long; (6) a powerhouse containing three turbine-generator units with a total rated capacity of 10.95 megawatts; (7) a 37-foot-long 4.16-kilovolt (kV) underground transmission line connecting the powerhouse to a 4.16/26.4-kV step-up transformer which in turn is connected to a 26.4-kV

[2] The estimated hourly cost (salary plus benefits) provided in this section is based on the salary figures (*http://www.bls.gov/oes/current/naics2_22.htm)* and benefits (*http://www.bls.gov/news.release/ecec.nr0.htm)* for May 2017 posted by the Bureau of Labor Statistics for the Utilities sector. The hourly estimates for salary plus benefits are $66.90/hour based on the Engineering career (Occupation Code: 17–2071).

[3] Both figures for PC respondents are not to be totaled. They represent the same set of respondents.

[4] Both figures for GO respondents are not to be totaled. They represent the same set of respondents.

transmission grid via an approximately 30-foot-long 26.4-kV underground transmission line; (8) and appurtenant facilities.

The Great Falls Project is operated in a run-of-river mode. For the period 2010 through 2018, the average annual generation at the Great Falls Project was 17,484 megawatt-hours.

o. A copy of the application is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's website at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support. A copy is also available for inspection and reproduction at the address in item h above.

You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

p. Procedural schedule and final amendments: The application will be processed according to the following preliminary schedule. Revisions to the schedule will be made as appropriate.

Issue Deficiency Letter (if necessary).	April 2019.
Request Additional Information	April 2019.
Issue Acceptance Letter	July 2019.
Issue Scoping Document 1 for comments.	August 2019.
Request Additional Information (if necessary).	October 2019.
Issue Scoping Document 2	November 2019.
Issue notice of ready for environmental analysis.	November 2019.
Commission issues EA	May 2020.
Comments on EA	June 2020.

q. Final amendments to the application must be filed with the Commission no later than 30 days from the issuance date of the notice of ready for environmental analysis.

Dated: March 11, 2019.

Kimberly D. Bose,

Secretary.

[FR Doc. 2019–05049 Filed 3–18–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 6731–015]

Coneross Power Corporation; Notice of Application Tendered for Filing With the Commission and Soliciting Additional Study Requests and Establishing Procedural Schedule for Relicensing and a Deadline for Submission of Final Amendments

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* Subsequent Minor license.

b. *Project No.:* 6731–015.

c. *Date filed:* February 28, 2019.

d. *Applicant:* Coneross Power Corporation.

e. *Name of Project:* Coneross Hydroelectric Project.

f. *Location:* The Coneross Hydroelectric Project is located on Coneross Creek in Oconee County, South Carolina. The project does not occupy Federal lands.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791 (a)–825(r).

h. *Applicant Contact:* Mr. Kevin Webb, Hydro Licensing Manager, Enel Green Power North America, Inc., 100 Brickstone Square, Suite 300, Andover, MA 01810, (978) 935–6039.

i. *FERC Contact:* Jeanne Edwards, (202) 502–6181, *jeanne.edwards@ferc.gov.*

j. *Cooperating agencies:* Federal, state, local, and tribal agencies with jurisdiction and/or special expertise with respect to environmental issues that wish to cooperate in the preparation of the environmental document should follow the instructions for filing such requests described in item l below. Cooperating agencies should note the Commission's policy that agencies that cooperate in the preparation of the environmental document cannot also intervene. *See,* 94 FERC ¶ 61,076 (2001).

k. Pursuant to section 4.32(b)(7) of 18 CFR of the Commission's regulations, if any resource agency, Indian Tribe, or person believes that an additional scientific study should be conducted in order to form an adequate factual basis for a complete analysis of the application on its merit, the resource agency, Indian Tribe, or person must file a request for a study with the Commission not later than 60 days from the date of filing of the application, and serve a copy of the request on the applicant.

l. *Deadline for filing additional study requests and requests for cooperating agency status:* April 29, 2019.

The Commission strongly encourages electronic filing. Please file additional study requests and requests for cooperating agency status using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. The first page of any filing should include docket number P–6731–015.

m. The application is not ready for environmental analysis at this time.

n. *The project consists of:* (1) A 288-foot-long, 25-foot-high concrete gravity dam, consisting of: (i) a 55-foot-long east non-overflow section, (ii) a 179-foot-long central overflow spillway topped with 1.5-foot-high flashboards, and (iii) a 110-foot-long west non-overflow section that includes an 8-foot-wide by 8-foot-high intake headgate protected by a 25-foot-long, 19-foot-deep trash rack structure with 2-inch clear bar spacing, and a 7-foot-high, 5-foot-wide sluice gate; (2) a 15.4-acre impoundment at an elevation of 729.5 feet NGVD 29,[1] including the spillway flashboards; (3) a 780-foot-long, 8-foot-diameter concrete penstock extending from the dam to a 65-foot-long, 8-foot-diameter steel penstock attached to a 25-foot-long trifurcation structure that channels flow to the turbine-generator units; (4) a 43-foot-long, 39-foot-wide powerhouse containing two vertical-shaft turbine-generator units and one horizontal-shaft Francis turbine-generator unit for a total installed capacity of 889 kilowatts; (5) a 95-foot-long, 41-foot-wide tailrace channel; (6) a 1,300-foot-long bypassed reach between the dam and the tailrace; (7) a 93-foot-long, 2,300-volt transmission line connecting the powerhouse with the grid via a 2.3/12.47-kilovolt transformer; and (8) appurtenant facilities. The average annual generation was 2,215,800 kilowatt-hours for the period of record from 2008 to 2017.

o. A copy of the application is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's website at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in

[1] National Geodetic Vertical Datum of 1929 (NGVD 29) is a national standard for measuring elevations above sea level.

the docket number field to access the document. For assistance, contact FERC Online Support. A copy is also available for inspection and reproduction at the address in item h above.

You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

p. *Procedural schedule and final amendments:* The application will be processed according to the following preliminary schedule. Revisions to the schedule will be made as appropriate.

Issue Deficiency Letter (if necessary).	May 2019.
Issue Scoping Document 1 for comments.	October 2019.
Comments on Scoping Document 1.	November 2019.
Issue Scoping Document 2 (if necessary).	December 2019.
Issue Notice of Ready for Environmental Analysis.	January 2019.
Commission issues EA	September 2020.

Final amendments to the application must be filed with the Commission no later than 30 days from the issuance date of the notice of ready for environmental analysis.

Dated: March 12, 2019.

Kimberly D. Bose,

Secretary.

[FR Doc. 2019–05053 Filed 3–18–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. IC19–13–000]

Commission Information Collection Activities (FERC–715); Comment Request; Extension

AGENCY: Federal Energy Regulatory Commission, Department of Energy.

ACTION: Notice of information collection and request for comments.

SUMMARY: In compliance with the requirements of the Paperwork Reduction Act of 1995, the Federal Energy Regulatory Commission (Commission or FERC) is soliciting public comment on the currently approved information collection FERC–715 (Annual Transmission Planning and Evaluation Report) and submitting the information collection to the Office of Management and Budget (OMB) for review. Any interested person may file comments directly with OMB and should address a copy of those comments to the Commission as explained below. On December 27, 2018 (83 FR 66697), the Commission published a Notice in the **Federal Register** in Docket No. IC19–13–000 requesting public comments. The Commission received one comment, which is addressed in this Notice and will be included in the submittal to OMB.

DATES: Comments on the collection of information are due April 18, 2019.

ADDRESSES: Comments filed with OMB, identified by OMB Control No. 1902–0171, should be sent via email to the Office of Information and Regulatory Affairs: *oira_submission@omb.gov.* Attention: Federal Energy Regulatory Commission Desk Officer.

A copy of the comments should also be sent to the Commission, in Docket No. IC19–13–000, by either of the following methods:

- *eFiling at Commission's Website: http://www.ferc.gov/docs-filing/efiling.asp.*
- *Mail/Hand Delivery/Courier:* Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE, Washington, DC 20426.

Instructions: All submissions must be formatted and filed in accordance with submission guidelines at: *http://www.ferc.gov/help/submission-guide.asp.* For user assistance, contact FERC Online Support by email at *ferconlinesupport@ferc.gov,* or by phone at: (866) 208–3676 (toll-free), or (202) 502–8659 for TTY.

Docket: Users interested in receiving automatic notification of activity in this docket or in viewing/downloading comments and issuances in this docket may do so at *http://www.ferc.gov/docs-filing/docs-filing.asp.*

FOR FURTHER INFORMATION CONTACT: Ellen Brown may be reached by email at *DataClearance@FERC.gov,* telephone at (202) 502–8663, and fax at (202) 273–0873.

SUPPLEMENTARY INFORMATION:

Title: FERC–715, Annual Transmission Planning and Evaluation Report.

OMB Control No.: 1902–0171.

Type of Request: Three-year extension of the FERC–715 information collection requirements with no changes to the current reporting and recordkeeping requirements.

Abstract: Acting under FPA section 213,[1] FERC requires each transmitting utility that operates integrated transmission system facilities rated above 100 kilovolts (kV) to submit annually:

- Contact information for the FERC–715;
- Base case power flow data (if it does not participate in the development and use of regional power flow data);
- Transmission system maps and diagrams used by the respondent for transmission planning;
- A detailed description of the transmission planning reliability criteria used to evaluate system performance for time frames and planning horizons used in regional and corporate planning;
- A detailed description of the respondent's transmission planning assessment practices (including, but not limited to, how reliability criteria are applied and the steps taken in performing transmission planning studies); and
- A detailed evaluation of the respondent's anticipated system performance as measured against its stated reliability criteria using its stated assessment practices.

The FERC–715 enables the Commission to use the information as part of their regulatory oversight functions which include:

- The review of rates and charges;
- The disposition of jurisdictional facilities;
- The consolidation and mergers;
- The adequacy of supply and;
- Reliability of the nation's transmission grid.

The FERC–715 enables the Commission to facilitate and resolve transmission disputes. Additionally, the Office of Electric Reliability (OER) uses the FERC–715 data to help protect and improve the reliability and security of the nation's bulk power system. OER oversees the development and review of mandatory reliability and security standards and ensures compliance with the approved standards by the users, owners, and operators of the bulk power system. OER also monitors and addresses issues concerning the nation's bulk power system including assessments of resource adequacy and reliability.

Without the FERC–715 data, the Commission would be unable to evaluate planned projects or requests related to transmission.

Summary and Response to Public Comment: In response to the Notice of Information Collection and Request for Comments published in the **Federal Register** on December 27, 2018, the Commission received one comment from the American Public Power Association (APPA). The comment recommended enhancing the current FERC Form No. 715 collection process

[1] 16 U.S.C. 824l.

to have each of the six submission parts better segregated from each other to allow for more granular responses to data requests and limit the release of components of the report which are Critical Energy/Electric Infrastructure Information (CEII).

These recommendations will be taken under consideration in the event of potential future revisions of the FERC Form No. 715 process.

Type of Respondent: Integrated transmission system facilities rated at or above 100 kilovolts (kV).

Estimate of Annual Burden: [2] The Commission estimates the total annual burden and cost [3] for this information collection as follows.

FERC–715—ANNUAL TRANSMISSION PLANNING AND EVALUATION REPORT

	Number of respondents (1)	Annual number of responses per respondent (2)	Total number of responses (1) * (2) = (3)	Average burden & cost per response (4)	Total annual burden hours & total annual cost (3) * (4) = (5)	Cost per respondent ($) (5) ÷ (1)
Annual Transmission Planning and Evaluation Report [4].	111	1	111	160 hrs.; $11,897.60	17,760 hrs.; $1,320,633.60	$11,897.60

Comments: Comments are invited on: (1) Whether the collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Dated: March 12, 2019.

Kimberly D. Bose,

Secretary.

[FR Doc. 2019–05048 Filed 3–18–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP19–105–000]

WBI Energy Transmission, Inc.; Notice of Request Under Blanket Authorization

Take notice that on March 1, 2019, WBI Energy Transmission, Inc. (WBI), 1250 West Century Avenue, Bismarck, North Dakota 58503, filed in the above referenced docket, a prior notice request pursuant to sections 157.205 and 157.210 of the Commission's regulations under the Natural Gas Act (NGA) and Columbia's blanket certificate issued in Docket No. CP82–487–000, for authorization to construct, replace, and operate mainline natural gas facilities all located in Carbon and Yellowstone Counties, Montana, and to provide additional 22,500 dekatherms per day of incremental firm transportation service to the Billings, Montana market area, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The filing may also be viewed on the web at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or TTY, contact (202) 502–8659.

Any questions regarding the application should be directed to Lori Myerchin, Director, Regulatory Affairs and Transportation Services, WBI Energy Transmission, Inc., 1250 West Century Avenue, Bismarck, North Dakota 58503, at (701) 530–1563, or *lori.myerchin@wbienergy.com.*

Specifically, WBI proposes to: (1) Construct the new Billings-Allendale Town Border Station (TBS) between Billings and Laurel, Montana; (2) replace five sections of 10- and 12-inch-diameter natural gas pipeline with 12-inch-diameter pipeline, totaling approximately 9.5 miles, between the Fromberg Regulator Station (RS) and the proposed Billings-Allendale TBS; (3) construct a new RS at Elbow Creek approximately one mile north of Edgar, Montana; (4) replace the Fromberg Takeoff Valve Setting and the Edgar and Rockvale TBSs; and (5) increase the Maximum Allowable Operating Pressure of a section of pipeline in Carbon County, Montana. The estimated cost of the project is $11.6 million.

Pursuant to section 157.9 of the Commission's rules, 18 CFR 157.9, within 90 days of this Notice the Commission staff will either: Complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's EA.

Any person may, within 60 days after the issuance of the instant notice by the

[2] ''Burden'' is the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. For further explanation of what is included in the information collection burden, refer to Title 5 Code of Federal Regulations 1320.3.

[3] The hourly cost (for salary plus benefits) uses the figures from the Bureau of Labor Statistics, May 2017. These figures include salary (*https://www.bls.gov/oes/current/naics2_22.htm*) and benefits (*http://www.bls.gov/news.release/ecec.nr0.htm*) and are:

—Management (Code 11–0000), $94.28/hr.

—Computer and mathematical (Code 15–0000), $63.25/hr.

—Electrical Engineers (Code 17–2071), $66.90/hr.

—Economist (Code 19–3011), $71.98/hr.

—Computer and Information Systems Managers (Code 11–3021), $96.51/hr.

—Accountants and Auditors (Code 13–2011), $56.59/hr.

—Transportation, Storage, and Distribution Managers (Code 11–3071), $88.61/hr.

—Power Distributors and Dispatchers (Code 51–8012), $56.74/hr.

We are using the average hourly cost (for wages plus benefits, for these categories) of $74.36/hour.

[4] In 2018, FERC had 111 direct filings (responses) from entities. However there were 239 total respondents if Transmitting Utilities that have their filing submitted by a designated reporting agent, such as a regional entity, are counted independently.

Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention. Any person filing to intervene or the Commission's staff may, pursuant to section 157.205 of the Commission's Regulations under the NGA (18 CFR 157.205) file a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the NGA.

The Commission strongly encourages electronic filings of comments, protests, and interventions via the internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's website (*http://www.ferc.gov*) under the ''e-Filing'' link.

Dated: March 11, 2019.

Kimberly D. Bose,

Secretary.

[FR Doc. 2019–05046 Filed 3–18–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 405–121]

Exelon Generation Company, LLC; Notice of Petition for Declaratory Order

Take notice that on February 28, 2019, Exelon Generation Company, LLC (Exelon or Petitioner), applicant for the Conowingo Hydroelectric Project No. 405, filed a petition for declaratory order (petition) pursuant to Rule 207(a)(2) of the Federal Energy Regulatory Commission's Rules of Practice and Procedure, 18 CFR 385.207(a)(2). Exelon requests that the Commission declare that the Maryland Department of the Environment has waived its authority to issue a certification for the Conowingo Project under Section 401 of the Clean Water Act, 33 U.S.C. 1341(a)(1), as more fully explained in the petition.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure, 18 CFR 385.211, 385.214. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Petitioner.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the website that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5:00 p.m. Eastern Time on March 28, 2019.

Dated: March 13, 2019.

Kimberly D. Bose,

Secretary.

[FR Doc. 2019–05112 Filed 3–18–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2829–010]

City of Loveland; Notice of Application Accepted for Filing, Soliciting Comments, Motions To Intervene, and Protests

Take notice that the following hydroelectric application has been filed with the Federal Energy Regulatory Commission and is available for public inspection:

a. *Application Type:* License Amendment.

b. *Project No:* 2829–010.

c. *Date Filed:* March 4, 2019.

d. *Applicant:* City of Loveland, Colorado.

e. *Name of Project:* Loveland Hydroelectric Project.

f. *Location:* Big Thompson River, in Larimer County, Colorado.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791a–825r.

h. *Applicant Contact:* Kimberly Fentress, Project Manager, City of Loveland, Colorado, 200 North Wilson Street, Building 1, Loveland, CO 80537; phone (970) 962–3587.

i. *FERC Contact:* David Rudisail at (202) 502–6376, or *david.rudisail@ferc.gov.*

j. *Deadline for filing comments, motions to intervene, and protests:* April 12, 2019.

The Commission strongly encourages electronic filing. Please file motions to intervene, protests, and comments using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. The first page of any filing should include docket number P–2829–010. Comments emailed to Commission staff are not considered part of the Commission record.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Request:* The City of Loveland has requested to amend its license to allow filling of underground pipeline on private land in the Idlewild Subdivision. The purpose of the proposed fill is to prevent future subsidence of the pipe in the vicinity of homes, roads, and other infrastructure.

l. *Locations of the Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street NE, Room 2A, Washington, DC 20426, or by calling (202) 502–8371. This filing may also be viewed on the Commission's website at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the

document. You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, call 1–866–208–3676 or email *FERCOnlineSupport@ferc.gov,* for TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item (h) above. Agencies may obtain copies of the application directly from the applicant.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214, respectively. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. *Filing and Service of Documents:* Any filing must (1) bear in all capital letters the title ''COMMENTS'', ''PROTEST'', or ''MOTION TO INTERVENE'' as applicable; (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person commenting, protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, motions to intervene, or protests must set forth their evidentiary basis. Any filing made by an intervenor must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 385.2010.

Dated: March 13, 2019.

Kimberly D. Bose,

Secretary.

[FR Doc. 2019–05109 Filed 3–18–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

March 12, 2019.

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG19–68–000.
Applicants: Windhub Solar B, LLC.
Description: Notice of Self-Certification of Exempt Wholesale Status of Windhub Solar B, LLC.
Filed Date: 3/11/19.
Accession Number: 20190311–5220.
Comments Due: 5 p.m. ET 4/1/19.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER13–1562–006; ER10–2488–016; ER12–1931–007 ER10–2504–008; ER12–610–008; ER12–338–001.
Applicants: Catalina Solar Lessee, LLC, Oasis Power Partners, LLC, Pacific Wind Lessee, LLC, Shiloh Wind Project 2, LLC, Shiloh III Lessee, LLC, Shiloh IV Lessee, LLC.
Description: Notice of Change in Status of the EDFR CAISO Sellers.
Filed Date: 3/11/19.
Accession Number: 20190311–5266.
Comments Due: 5 p.m. ET 4/1/19.

Docket Numbers: ER15–2135–001; ER16–1878–002.
Applicants: Alexander Wind Farm, LLC, Ringer Hill Wind, LLC.
Description: Notice of Non-Material Change in Status of Alexander Wind Farm, LLC, et al.
Filed Date: 3/11/19.
Accession Number: 20190311–5273.
Comments Due: 5 p.m. ET 4/1/19.

Docket Numbers: ER17–256–007; ER17–242–007; ER17–243–007; ER17–245–007; ER17–652–007.
Applicants: Darby Power, LLC, Gavin Power, LLC, Lawrenceburg Power, LLC, Waterford Power, LLC, Lightstone Marketing LLC.
Description: Notice of Non-Material Change in Status of Darby Power, LLC, et. al.
Filed Date: 3/12/19.
Accession Number: 20190312–5159.
Comments Due: 5 p.m. ET 4/2/19.

Docket Numbers: ER19–813–001.
Applicants: Broken Bow Wind II, LLC.
Description: Tariff Amendment: Amendment to Pending Tariff Filing to be effective 1/16/2019.
Filed Date: 3/12/19.
Accession Number: 20190312–5099.
Comments Due: 5 p.m. ET 4/2/19.

Docket Numbers: ER19–924–001.
Applicants: Arizona Public Service Company.
Description: Tariff Amendment: Rate Schedule No. 274, WestConnect Planning Participation Agreement to be effective 12/31/2018.
Filed Date: 3/12/19.
Accession Number: 20190312–5075.
Comments Due: 5 p.m. ET 4/2/19.

Docket Numbers: ER19–1043–001.
Applicants: Idaho Power Company.
Description: Tariff Amendment: Amendment to Schedule 12 Update Regarding Real Power Losses for Dynamic Transfer to be effective 4/15/2019.
Filed Date: 3/12/19.
Accession Number: 20190312–5055.
Comments Due: 5 p.m. ET 4/2/19.

Docket Numbers: ER19–1208–000.
Applicants: Renewable Energy Aggregators, Inc.
Description: Request for Waiver of Renewable Energy Aggregators, Inc.
Filed Date: 3/6/19.
Accession Number: 20190306–5237.
Comments Due: 5 p.m. ET 3/21/19.

Docket Numbers: ER19–1240–000.
Applicants: Sage Solar I LLC.
Description: Baseline eTariff Filing: Sage Solar I LLC MBR to be effective 5/1/2019.
Filed Date: 3/11/19.
Accession Number: 20190311–5197, 20190311–5268.
Comments Due: 5 p.m. ET 4/1/19.

Docket Numbers: ER19–1241–000.
Applicants: Sage Solar II LLC.
Description: Baseline eTariff Filing: Sage Solar II LLC MBR to be effective 5/1/2019.
Filed Date: 3/11/19.
Accession Number: 20190311–5205, 20190311–5268.
Comments Due: 5 p.m. ET 4/1/19.

Docket Numbers: ER19–1242–000.
Applicants: Sage Solar III LLC.
Description: Baseline eTariff Filing: Sage Solar III LLC MBR to be effective 5/1/2019.
Filed Date: 3/11/19.
Accession Number: 20190311–5215, 20190311–5268.
Comments Due: 5 p.m. ET 4/1/19.

Docket Numbers: ER19–1243–000.
Applicants: PJM Interconnection, L.L.C.
Description: § 205(d) Rate Filing: First Revised Service Agreement No. 3471; Queue No. AE1–036 to be effective 2/8/2019.
Filed Date: 3/11/19.
Accession Number: 20190311–5219.
Comments Due: 5 p.m. ET 4/1/19.

Docket Numbers: ER19–1245–000.
Applicants: Nevada Power Company.

Description: § 205(d) Rate Filing: NPC-Overton-Lincoln Trans Agr R.S. 51 to be effective 5/11/2019.
Filed Date: 3/12/19.
Accession Number: 20190312–5001.
Comments Due: 5 p.m. ET 4/2/19.

Docket Numbers: ER19–1246–000.
Applicants: Southern California Edison Company.
Description: § 205(d) Rate Filing: Amendment to LGIA—Peak Valley Solar Farm, SA No. 198 to be effective 3/13/2018.
Filed Date: 3/12/19.
Accession Number: 20190312–5003.
Comments Due: 5 p.m. ET 4/2/19.

Docket Numbers: R19–1247–000.
Applicants: American Transmission Systems, Incorporated, PJM Interconnection, L.L.C.
Description: § 205(d) Rate Filing: ATSI submits (7) ECSAs, Service Agreement Nos. 5180–5184, 5192 and 5209 to be effective 5/14/2019.
Filed Date: 3/12/19.
Accession Number: 20190312–5037.
Comments Due: 5 p.m. ET 4/2/19.

Docket Numbers: ER19–1248–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: § 205(d) Rate Filing: 2019–03–12_SA 3262 Southern Hills Wind Energy—MidAmerican GIA (J527) to be effective 2/26/2019.
Filed Date: 3/12/19.
Accession Number: 20190312–5042.
Comments Due: 5 p.m. ET 4/2/19.

Docket Numbers: ER19–1249–000.
Applicants: Duke Energy Indiana, LLC.
Description: Tariff Cancellation: DEI—Rate Schedule No. 246 Cancellation Filing to be effective 12/12/2018.
Filed Date: 3/12/19.
Accession Number: 20190312–5058.
Comments Due: 5 p.m. ET 4/2/19.

Docket Numbers: ER19–1250–000.
Applicants: Duke Energy Carolinas, LLC.
Description: § 205(d) Rate Filing: DEC-Rutherford EMC NITSA (SA No. 369) Amendment to be effective 4/1/2019.
Filed Date: 3/12/19.
Accession Number: 20190312–5063.
Comments Due: 5 p.m. ET 4/2/19.

Docket Numbers: ER19–1252–000.
Applicants: PacifiCorp.
Description: § 205(d) Rate Filing: RS 239 BPA Two-Way Operation and Maintenance Agreement Rev 6 to be effective 5/12/2019.
Filed Date: 3/12/19.
Accession Number: 20190312–5081.
Comments Due: 5 p.m. ET 4/2/19.

Docket Numbers: ER19–1253–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: § 205(d) Rate Filing: 2019–03–12_SA 2997 Palo Alto Wind-MidAmerican 2nd Rev GIA (J529 J590) to be effective 2/26/2019.
Filed Date: 3/12/19.
Accession Number: 20190312–5111.
Comments Due: 5 p.m. ET 4/2/19.

Docket Numbers: ER19–1261–000.
Applicants: Southern California Edison Company.
Description: § 205(d) Rate Filing: LGIA—Athos Power Plant SA No. 227 to be effective 3/13/2019.
Filed Date: 3/12/19.
Accession Number: 20190312–5151.
Comments Due: 5 p.m. ET 4/2/19.

Docket Numbers: ER19–1262–000.
Applicants: Indiana Michigan Power Company, PJM Interconnection, L.L.C.
Description: § 205(d) Rate Filing: AEPSC submits Interconnection Agreement, SA No. 1263 to be effective 12/3/2018.
Filed Date: 3/12/19.
Accession Number: 20190312–5158.
Comments Due: 5 p.m. ET 4/2/19.

Docket Numbers: ER19–1263–000.
Applicants: PJM Interconnection, L.L.C.
Description: Tariff Cancellation: Notice of Cancellation of ISA SA No. 4104; Queue No. U2–045/W4–063 to be effective 3/12/2019.
Filed Date: 3/12/19.
Accession Number: 20190312–5160.
Comments Due: 5 p.m. ET 4/2/19.

Take notice that the Commission received the following electric reliability filings.

Docket Numbers: RD19–3–000.
Applicants: North American Electric Reliability Corporation.
Description: Petition of the North American Electric Reliability Corporation for Approval of Proposed Reliability Standard CIP–008–6.
Filed Date: 3/7/19.
Accession Number: 20190307–5219.
Comments Due: 5 p.m. ET 4/11/19.

Docket Numbers: RD19–4–000.
Applicants: North American Electric Reliability Corporation, Western Electricity Coordinating Council.
Description: Joint Petition of the North American Electric Reliability Corporation and Western Electricity Coordinating Council for Approval of Proposed Regional Reliability Standard IRO–006–WECC–3.
Filed Date: 3/6/19.
Accession Number: 20190306–5262.
Comments Due: 5 p.m. ET 4/11/19.

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 12, 2019.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2019–05059 Filed 3–18–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2079–080]

Placer County Water Agency; Notice of Petition for Declaratory Order

Take notice that on February 22, 2019, Placer County Water Agency (Placer County or Petitioner), applicant for the Middle Fork American Project No. 2079, filed a petition for declaratory order (petition) pursuant to Rule 207(a)(2) of the Federal Energy Regulatory Commission's Rules of Practice and Procedure, 18 CFR 385.207(a)(2). Placer County requests that the Commission declare that the California State Water Resources Control Board has waived its authority to issue a certification for the Middle Fork American Project under Section 401 of the Clean Water Act, 33 U.S.C. 1341(a)(1), as more fully explained in the petition.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure, 18 CFR 385.211, 385.214. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Petitioner.

The Commission encourages electronic submission of protests and

interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the website that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5:00 p.m. Eastern Time on March 28, 2019.

Dated: March 13, 2019.

Kimberly D. Bose,

Secretary.

[FR Doc. 2019–05108 Filed 3–18–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER19–1241–000]

Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization: Sage Solar II LLC

This is a supplemental notice in the above-referenced proceeding of Sage Solar II 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 12, 2019.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2019–05060 Filed 3–18–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 10624–026]

French Paper Company; Notice of Application Tendered for Filing With The Commission and Establishing Procedural Schedule for Licensing and Deadline for Submission of Final Amendments

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* Subsequent Minor License.

b. *Project No.:* 10624–026.

c. *Date Filed:* February 27, 2019.

d. *Applicant:* French Paper Company.

e. *Name of Project:* French Paper Hydroelectric Project.

f. *Location:* The French Paper Project is located on the St. Joseph River in the City of Niles, Michigan. The project does not occupy federal land.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791 (a)–825(r).

h. *Applicant Contact:* Mr. Shane Fenske, President, French Paper Company, 100 French Street, Niles, MI 49120; phone (269) 683–1100 or email at *fenske@frenchpaper.com.*

i. *FERC Contact:* Jay Summers, phone: (202) 502–8764 or email at *jay.summers@ferc.gov.*

j. This application is not ready for environmental analysis at this time.

k. The French Paper Project consists of the following existing facilities: (1) An 80 acre reservoir with a storage capacity of 510 acre-feet at a water surface elevation of 653.75 feet mean sea level; (2) a 321-foot-long, 13-foot-high concrete spillway structure, topped by 2.3-foot-high flashboards; (3) a 100-foot-wide, 600-foot-long intake channel; (4) a 115-foot-wide, 55-foot-long, 56-foot-high powerhouse, with an operating head of 14 feet; (5) trash racks at the entrance to the intake channel and at the entrance to the powerhouse; (6) two vertical shaft propeller turbines each coupled to a 400-kilowatt (kW) generator, one vertical shaft propeller turbine coupled to a 300-kW generator, and one vertical shaft Francis turbine coupled to a 200-kW generator, for a total installed capacity of 1.3 megawatts; (7) a 6-foot-wide, 220-foot-long reinforced concrete fish ladder; (8) a 480-volt to 12-kilovolt (kV) transformer located adjacent to the powerhouse, which is connected to Indiana Michigan Power Company's 3-phase, 12-kV overhead transmission line; and (9) appurtenant facilities.

The French Paper Project is operated in a run-of-river mode with an estimated annual energy production of approximately 8,442.8 megawatt hours. The French Paper Company proposes to continue to operate the project in a run-of-river mode and does not propose any new construction or modifications to the project.

l. A copy of the application is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's website at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). A copy is also available for inspection and reproduction at the address in item h above.

m. You may also register online at *http://www.ferc.gov/docs-filing/*

esubscription.asp to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

n. Procedural schedule: The application will be processed according to the following preliminary schedule. Revisions to the schedule will be made as appropriate.

Milestone	Target date
Notice of Acceptance/Notice of Ready for Environmental Analysis.	June 2019.
Filing of recommendations, preliminary terms and conditions, and fishway prescriptions.	August 2019.
Commission issues Environmental Assessment (EA).	January 2020.
Comments on EA	February 2020.
Modified terms and conditions.	April 2020.

o. Final amendments to the application must be filed with the Commission no later than 30 days from the issuance date of the notice of ready for environmental analysis.

Dated: March 11, 2019.

Kimberly D. Bose,

Secretary.

[FR Doc. 2019–05051 Filed 3–18–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 4318–005]

The Cobbs, LLC; Noone Falls Energy, LLC; Notice of Transfer of Exemption

1. By letter filed May 3, 2018, The Cobbs, LLC informed the Commission that the exemption from licensing for the .15–MW Noone Mills Project No. 4318, originally issued December 4, 1981 [1] has been transferred from The Cobbs, LLC to Noone Falls Energy, LLC. The project is located on the Contoocook River in Hillsborough County, New Hampshire. The transfer of an exemption does not require Commission approval.

2. Noone Falls Energy, LLC is now the exemptee of the Noone Mills Project No. 4318. All correspondence should be forwarded to: Mr. Martin G. Greco, Member, Noone Falls Energy, LLC, P.O. Box 9, South Casco, ME 04077, Phone: 207–655–7000, Email: *mgreco@evergreenelectric.com*.

Dated: March 13, 2019.

Kimberly D. Bose,

Secretary.

[FR Doc. 2019–05107 Filed 3–18–19; 8:45 am]

BILLING CODE 6717–01–P

[1] Order Granting Exemption from Licensing of a Small Hydroelectric Project of 5 Megawatts or Less and Denying Competing Applications for Preliminary Permit. *American Hydro Power Company and Darobsum, Inc.,* 17 FERC ¶ 62,367 (1981).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. IC19–11–000]

Commission Information Collection Activities (FERC–538); Comment Request

AGENCY: Federal Energy Regulatory Commission, Department of Energy.

ACTION: Comment request.

SUMMARY: In compliance with the requirements of the Paperwork Reduction Act of 1995, the Federal Energy Regulatory Commission (Commission or FERC) is submitting its information collection FERC–538 (Gas Pipelines Certificates: Section 7(a) Mandatory Initial Service) to the Office of Management and Budget (OMB) for review of the information collection requirements. Any interested person may file comments directly with OMB and should address a copy of those comments to the Commission as explained below. The Commission previously published a Notice in the **Federal Register** on December 18, 2018, requesting public comments. The Commission received no comments on the FERC–538 and is making this notation in its submittal to OMB.

DATES: Comments on the collection of information are due by April 18, 2019.

ADDRESSES: Comments filed with OMB, identified by the OMB Control No. 1902–0061, should be sent via email to the Office of Information and Regulatory Affairs: *oira_submission@omb.gov.* Attention: Federal Energy Regulatory Commission Desk Officer.

A copy of the comments should also be sent to the Commission, in Docket No. IC19–11–000, by either of the following methods:

- *eFiling at Commission's Website: http://www.ferc.gov/docs-filing/efiling.asp.*
- *Mail/Hand Delivery/Courier:* Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE, Washington, DC 20426.

Instructions: All submissions must be formatted and filed in accordance with submission guidelines at: *http://www.ferc.gov/help/submission-guide.asp.* For user assistance contact FERC Online Support by email at *ferconlinesupport@ferc.gov,* or by phone at: (866) 208–3676 (toll-free), or (202) 502–8659 for TTY.

Docket: Users interested in receiving automatic notification of activity in this docket or in viewing/downloading comments and issuances in this docket may do so at *http://www.ferc.gov/docs-filing/docs-filing.asp.*

FOR FURTHER INFORMATION CONTACT: Ellen Brown may be reached by email at *DataClearance@FERC.gov,* by telephone at (202) 502–8663, and by fax at (202) 273–0873.

SUPPLEMENTARY INFORMATION:

Title: Gas Pipelines Certificates: Section 7(a) Mandatory Initial Service.

OMB Control No.: 1902–0061.

Type of Request: Three-year extension of the FERC–538 information collection requirements with no changes to the current reporting requirements.

Abstract: Under sections 7(a), 10(a) and 16 of Natural Gas Act (NGA),[1] upon application by a person or municipality authorized to engage in the local distribution of natural gas, the Commission may order a natural gas company to extend or improve its transportation facilities, and sell natural gas to the municipality or person and, for such purpose, to extend its transportation facilities to communities immediately adjacent to such facilities or to territories served by the natural gas pipeline company. The Commission uses the application data in order to be fully informed concerning the applicant, and the service the applicant is requesting.

Type of Respondents: Persons or municipalities authorized to engage in the local distribution of natural gas.

Estimate of Annual Burden [2]*:* The Commission estimates the annual reporting burden and cost for the information collection as:

[1] 15 U.S.C. 717f–w.

[2] ''Burden'' is defined as the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. For further explanation of what is included in the information collection burden, reference 5 Code of Federal Regulations 1320.3.

FERC–538—GAS PIPELINE CERTIFICATES: SECTION 7(a) MANDATORY INITIAL SERVICE

	Number of respondents (1)	Annual number of responses per respondent (2)	Total number of responses (1) * (2) = (3)	Average burden hrs. & Cost ($) per response [3] (4)	Total annual burden Hours & total annual cost ($) (3) * (4) = (5)	Cost per respondent ($) (5) ÷ (1)
Gas Pipeline Certificates.	1	1	1	240 hrs.; $18,960	240 hrs.; $18,960	$18,960

Comments: Comments are invited on: (1) Whether the collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Dated: March 13, 2019.

Kimberly D. Bose,

Secretary.

[FR Doc. 2019–05113 Filed 3–18–19; 8:45 am]

BILLING CODE 6717–01–P

[3] The estimates for cost per response are derived using the following formula: Average Burden Hours per Response * $79.00/hour = Average cost/response. The figure is the 2018 FERC average hourly cost (for wages and benefits) of $79.00 (and an average annual cost of $164,820/year). Commission staff is using the FERC average salary plus benefits because we consider people completing the FERC–538 to be compensated at rates similar to FERC employees.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER19–1242–000]

Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization: Sage Solar III LLC

This is a supplemental notice in the above-referenced proceeding of Sage Solar III 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 12, 2019.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2019–05062 Filed 3–18–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER19–1240–000]

Sage Solar I 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 Sage Solar I 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 12, 2019.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2019–05061 Filed 3–18–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 10102–000]

Springer Hydro No. 1; Notice of Existing Licensee's Failure To File a Notice of Intent To File a Subsequent License Application, and Soliciting Notices of Intent To File a License Application and Pre-Application Documents

The current license for Springer Hydro No. 1 Project No. 10102 was issued on June 29, 1990, for a term of 40 years, ending August 31, 2023.[1] The 45-kilowatt project is located on McFadden and Morrison Creeks in Chafee County, Colorado.

The project consists of: (1) A 14-foot-long, 44-inch-high concrete diversion weir and a 4-foot by 8-foot intake filter at elevation 8,676 feet mean sea level on Morrison Creek; (2) an 866-foot-long, 10-inch-diameter penstock; (3) the 15.4-acre-foot-capacity Waupaca reservoir no. 2 on McFadden Creek formed by three earthen dams including (a) a 408-foot-long, 28-foot-high main dam, (b) a 90-foot-long, 10-foot-high north saddle dam, and (c) a 148-foot-long, 18-foot high south saddle dam with a 48-foot-wide gravel spillway and a 10-inch-diameter, perforated pipe intake; (4) a 10-inch-diameter, 387-foot-long penstock from the reservoir, joining the downstream end of the penstock in item (2) above; (5) a 10-inch-diameter, 1,553-foot-long penstock; (6) a 20-foot-long, 10-foot-wide, 8-foot-high powerhouse containing a 45-kilowatt generating unit; (7) a 24-inch-diameter, 24-foot-long tailrace pipe discharging into Morrison Creek; (8) a 450-foot-long, 7.2-kilovolt transmission line connecting to a Sangre de Cristo Rural Electrical Association distribution line.

At least five years before the expiration of a license for a minor water power project in which sections 14 and 15 of the Federal Power Act were waived, the Commission's regulations require the licensee to file with the Commission a notice of intent (NOI) that contains an unequivocal statement of the licensee's intention to file or not to file an application for a subsequent license, details on the principal project works and installed plant capacity, and other information.[2]

If such a licensee does not inform the Commission that it intends to file an application for, in this case, a subsequent license for the project, the licensee may not file an application for a subsequent license, either individually or in conjunction with an entity or entities that are not currently licensees of the project.[3]

Because the existing license expires on August 31, 2023, the NOI was due to be filed no later than the close of business on August 31, 2018. Watershed Ranch LLC, the existing licensee for the Springer Hydro No. 1 Project, failed to file an NOI for the project by this date.[4]

Any party interested in filing a license application for the Springer Hydro No. 1 Project must first file an NOI[5] and a pre-application document (PAD)[6] pursuant to Part 5 of the Commission's regulations. Although the integrated licensing process (ILP) is the default pre-filing process, section 5.3(b) of the Commission's regulations allows a potential license applicant to request to use alternative licensing procedures when it files its NOI.[7]

This notice sets a deadline of 120 days from the date of this notice for interested applicants, other than the existing licensee, to file NOIs, PADs, and requests to use the traditional licensing process or alternative procedures.

Applications for a subsequent license from potential applicants must be filed with the Commission at least 24 months prior to the expiration of the existing license.[8] Because the existing license expires on August 31, 2023, applications for license for this project must be filed by August 31, 2021.[9]

Questions concerning this notice should be directed to Khatoon Melick at (202) 502–8433 or *khatoon.melick@ferc.gov*.

Dated: March 13, 2019.

Kimberly D. Bose,

Secretary.

[FR Doc. 2019–05110 Filed 3–18–19; 8:45 am]

BILLING CODE 6717–01–P

[1] *See Franklin Springer,* 51 FERC ¶ 61,375 (1990). The effective date of the license was backdated to September 1, 1983, the month when Springer Hydro began project operation.

[2] 18 CFR 16.19(b) (2018) (citing 18 CFR 16.6(b) (2018)).

[3] 18 CFR 16.24(b) (2018).

[4] 18 CFR 16.23(b) (2018).

[5] 18 CFR 5.5 (2018).

[6] 18 CFR 5.6 (2018).

[7] 18 CFR 5.3(b) (2018).

[8] 18 CFR 16.20 (2018).

[9] To the extent an interested applicant files an NOI and PAD and elects or is required to use the Commission's ILP, a process plan will be issued within 180 days of this notice, which accelerates the steps of the ILP to allow for filing a subsequent license application by the August 31, 2021 deadline.

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–ORD–2015–0467; FRL–9990–70–ORD]

Board of Scientific Counselors (BOSC) Safe and Sustainable Water; Resources Subcommittee Meeting—April 2019

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act the U.S. Environmental Protection Agency, Office of Research and Development (ORD), gives notice of a meeting of the Board of Scientific Counselors (BOSC) Safe and Sustainable Water Resources Subcommittee.

DATES: The meeting will be held on Tuesday, April 23, 2019, from 9:00 a.m. to 5:00 p.m., and Wednesday, April 24, 2019, from 9:00 a.m. until 3:00 p.m. All times noted are Eastern Time and approximate. The meeting may adjourn early if all business is finished. Attendees should register by April 16, 2019 at *https://www.eventbrite.com/e/us-epa-bosc-safe-and-sustainable-water-resources-subcommittee-meeting-tickets-56588267030.* Requests for making oral presentations at the meeting will be accepted up to one business day before the meeting.

ADDRESSES: The meeting will be held at the EPA's Federal Triangle Campus Facility, 1201 Constitution Ave. NW, Washington, District of Columbia 20460.

Submit your comments to Docket ID No. EPA–HQ–ORD–2015–0467 by one of the following methods:

- *www.regulations.gov:* Follow the on-line instructions for submitting comments.

• *Email:* Send comments by electronic mail (email) to: *ORD.Docket@epa.gov,* Attention Docket ID No. EPA–HQ–ORD–2015–0467.

• *Fax:* Fax comments to: (202) 566–0224, Attention Docket ID No. EPA–HQ–ORD–2015–0467.

• *Mail:* Send comments by mail to: Board of Scientific Counselors (BOSC) Chemical Safety for Sustainability Subcommittee Docket, Mail Code: 2822T, 1301 Constitution Ave. NW, Washington, DC, 20004, Attention Docket ID No. EPA–HQ–ORD–2015–0467.

• *Hand Delivery or Courier:* Deliver comments to: EPA Docket Center (EPA/DC), Room 3334, William Jefferson Clinton West Building, 1301 Constitution Ave. NW, Washington, DC, Attention Docket ID No. EPA–HQ–ORD–2015–0467. Note: this is not a mailing address. Deliveries are only accepted during the docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: The EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov* including any personal information provided unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or email. The *www.regulations.gov* website is an ''anonymous access'' system, which means the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to the EPA without going through *www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the internet. If you submit an electronic comment, the EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about the EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/dockets/.*

Docket: All documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the Board of Scientific Counselors (BOSC) Safe and Sustainable Water Resources Subcommittee Docket, EPA/DC, William Jefferson Clinton West Building, Room 3334, 1301 Constitution Ave. NW, Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the ORD Docket is (202) 566–1752.

FOR FURTHER INFORMATION CONTACT: The Designated Federal Officer via mail at: Tom Tracy, Mail Code 8104R, Office of Science Policy, Office of Research and Development, U.S. Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460; via phone/voice mail at: (202) 564–6518; via fax at: (202) 565–2911; or via email at: *tracy.tom@epa.gov.*

SUPPLEMENTARY INFORMATION:

General Information: The meeting is open to the public. Any member of the public interested in receiving a draft agenda, attending the meeting, or making a presentation at the meeting may contact Tom Tracy, the Designated Federal Officer, via any of the contact methods listed in the **FOR FURTHER INFORMATION CONTACT** section above. Individuals making an oral presentation will be limited to a total of three minutes. For security purposes, all attendees must provide their names to the Designated Federal Officer by registering online at *https://www.eventbrite.com/e/us-epa-bosc-safe-and-sustainable-water-resources-subcommittee-meeting-tickets-56588267030* by April 16, 2019, and must go through a metal detector, sign in with the security desk, and show REAL ID Act-compliant government-issued photo identification to enter the building. Attendees are encouraged to arrive at least 15 minutes prior to the start of the meeting to allow sufficient time for security screening. Proposed agenda items for the meeting include but are not limited to the following: Overview of materials provided to the subcommittee, update on ORD's Safe and Sustainable Water Resources Research Programs, draft Strategic Research Action Plans, review of charge questions, and subcommittee discussion.

Information on Services for Individuals With Disabilities: For information on access or services for individuals with disabilities, please contact Tom Tracy at (202) 564–6518 or *tracy.tom@epa.gov.* To request accommodation of a disability, please contact Tom Tracy, preferably at least ten days prior to the meeting, to give the EPA as much time as possible to process your request.

Dated: February 28, 2019.

Fred S. Hauchman,

Director, Office of Science Policy.

[FR Doc. 2019–05151 Filed 3–18–19; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2018–0014; FRL–9989–85]

Product Cancellation Order for Certain Pesticide Registrations and Amendments To Terminate Uses

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's order for the cancellations and amendments to terminate uses, voluntarily requested by the registrants and accepted by the Agency, of the products listed in Table 1 and Table 2 of Unit II, pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). This cancellation order follows a July 10, 2018 **Federal Register** Notice of Receipt of Requests from the registrants listed in Table 3 of Unit II to voluntarily cancel and amend to terminate uses of these product registrations. In the July 10, 2018 notice, EPA indicated that it would issue an order implementing the cancellations and amendments to terminate uses, unless the Agency received substantive comments within the 180-day comment period that would merit its further review of these requests, or unless the registrants withdrew their requests. The Agency received one anonymous public comment on the notice, but it didn't merit its further review of the requests. Two registrants requested to withdraw their requests to cancel registrations. The registrant for 81964–4, requested via letter to withdraw their voluntary cancellation request. Also, the registrant for 2596–150 and 2596–151, requested via letter to withdraw their voluntary cancellation requests. Accordingly, EPA

hereby issues in this notice a cancellation order granting the requested cancellations and amendments to terminate uses. Any distribution, sale, or use of the products subject to this cancellation order is permitted only in accordance with the terms of this order, including any existing stocks provisions.

DATES: The cancellations and amendments are effective March 19, 2019.

FOR FURTHER INFORMATION CONTACT: Christopher Green, Information Technology and Resources Management Division (7502P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (703) 341–0367; email address: *Green.Christopher@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

This action is directed to the public in general, and may be of interest to a wide range of stakeholders including environmental, human health, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. Since others also may be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action.

B. How can I get copies of this document and other related information?

The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2018–0014, is available at *http://www.regulations.gov* or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW, Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPP Docket is (703) 305–5805. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets*.

II. What action is the agency taking?

This notice announces the cancellations and amendments to terminate uses, as requested by registrants, of products registered under FIFRA section 3 (7 U.S.C. 136a). These registrations are listed in sequence by registration number in Tables 1 and 2 of this unit.

TABLE 1—PRODUCT CANCELLATIONS

Registration No.	Company No.	Product name	Active ingredients
264–736	264	Bayleton Technical Fungicide	Triadimefon.
264–740	264	Bayleton 50% Concentrate	Triadimefon.
264–743	264	Baytan Technical	Triadimenol.
50830–1	50830	The 10-Hour Insect Repellent	Diethyl toluamide.
52564–1	52564	Sodium Chlorite Technical 80 PCT	Sodium chlorite.
91974–2	91974	Kangaroo Old Fashioned Moth Balls	Naphthalene.
AR–130010	352	DuPont Realm Q Herbicide	Mesotrione & Rimsulfuron.
AR–940002	59639	Valent Bolero 8 EC	Thiobencarb.
AR–940003	59639	Valent Bolero 8 EC	Thiobencarb.
AR–950004	59639	Valent Bolero 8 EC	Thiobencarb.
CO–990010	62719	Kerb 50W Herbicide in WSP	Propyzamide.
NC–170005	62719	GF–3335	2,4-D, Choline salt.
OR–020029	62719	Kerb 50W Herbicide in WSP	Propyzamide.
OR–040029	62719	Kerb 50W Herbicide in WSP	Propyzamide.
OR–950033	7969	Basagran Herbicide	Sodium bentazon.
OR–990008	62719	Kerb 50W Herbicide in WSP	Propyzamide.

TABLE 2—PRODUCT REGISTRATION AMENDMENTS TO TERMINATE USES

Registration No.	Company No.	Product name	Active Ingredients	Uses to be terminated
92564–37	92564	Ant & Roach Killer Pump Spray B	beta-Cyfluthrin & o-Phenylphenol, sodium salt.	Outdoors.

Table 3 of this unit includes the names and addresses of record for all registrants of the products in Tables 1 and 2 of this unit, in sequence by EPA company number. This number corresponds to the first part of the EPA registration numbers of the products listed above.

TABLE 3—REGISTRANTS OF CANCELLED AND AMENDED PRODUCTS

EPA company No.	Company name and address
264	Bayer CropScience, LP., 2 T.W. Alexander Drive, P.O. Box 12014, Research Triangle Park, NC 27709.
352	E. I. Du Pont De Nemours and Company, Attn: Manager, US Registration, DuPont Crop Protection, Chestnut Run Plaza (CRP 720/2E5), 974 Centre Rd., Wilmington, DE 19805.
7969	BASF Corporation, Agricultural Products, 26 Davis Drive, P.O. Box 13528, Research Triangle Park, NC 27709–3528.
50830	Tec Laboratories, Inc., 7100 Tec Labs Way, SW, Albany, OR 97321.
52564	Ercros, S.A., Agent Name: Laird's Regulatory Consultants, Inc., 17804 Braemar Place, Leesburg, VA 20175–7046.
59639	Valent U.S.A., LLC., 1600 Riviera Avenue, Suite 200, Walnut Creek, CA 94596–8025.

TABLE 3—REGISTRANTS OF CANCELLED AND AMENDED PRODUCTS—Continued

EPA company No.	Company name and address
62719	Dow Agrosciences, LLC., 9330 Zionsville Rd., Indianapolis, IN 46268–1054.
91974	American Eagle Home Products, LLC., P.O. Box 691072, Orlando, FL 32869.
92564	SBM Life Science Corp., 1001 Winstead Drive, Suite 500, Cary, NC 27513.

III. Summary of Public Comments Received and Agency Response to Comments

The Agency received one anonymous public comment on the notice, but it didn't merit its further review of the request. However, two registrants requested to withdraw their requests to cancel registrations. The registrant for 81964–4, Chemstarr, LLC, requested via letter to withdraw their voluntary cancellation request for 81964–4. Also, the registrant for 2596–150 and 2596–151, The Hartz Mountain Corporation, requested via letter to withdraw their voluntary cancellation requests for 2596–150 and 2596–151: For these reasons, the Agency will not cancel these three registrations and the requests have been removed from this notice.

IV. Cancellation Order

Pursuant to FIFRA section 6(f) (7 U.S.C. 136d(f)(1)), EPA hereby approves the requested cancellations and amendments to terminate uses of the registrations identified in Tables 1 and 2 of Unit II. Accordingly, the Agency hereby orders that the product registrations identified in Tables 1 and 2 of Unit II are canceled and amended to terminate the affected uses. The effective date of the cancellations that are subject of this notice is March 19, 2019. Any distribution, sale, or use of existing stocks of the products identified in Tables 1 and 2 of Unit II in a manner inconsistent with any of the provisions for disposition of existing stocks set forth in Unit VI, will be a violation of FIFRA.

V. What is the agency's authority for taking this action?

Section 6(f)(1) of FIFRA (7 U.S.C. 136d(f)(1)) provides that a registrant of a pesticide product may at any time request that any of its pesticide registrations be canceled or amended to terminate one or more uses. FIFRA further provides that, before acting on the request, EPA must publish a notice of receipt of any such request in the **Federal Register**. Thereafter, following the public comment period, the EPA Administrator may approve such a request. The notice of receipt for this action was published for comment in the **Federal Register** of July 10, 2018 (83 FR 31969) (FRL–9979–71). The comment period closed on January 7, 2019.

VI. Provisions for Disposition of Existing Stocks

Existing stocks are those stocks of registered pesticide products which are currently in the United States and which were packaged, labeled, and released for shipment prior to the effective date of the action. The existing stocks provision for the products subject to this order is as follows.

For voluntary cancellations, the registrants may continue to sell and distribute existing stocks of products listed in Table 1 until March 18, 2020, which is 1 year after publication of this cancellation order in the **Federal Register**. Thereafter, the registrants are prohibited from selling or distributing products listed in Table 1 of Unit II, except for export in accordance with FIFRA section 17 (7 U.S.C. 136o) or for proper disposal.

Now that EPA has approved product labels reflecting the requested amendments to terminate uses, registrants are permitted to sell or distribute products listed in Table 2 of Unit II, under the previously approved labeling until September 17, 2020, a period of 18 months after publication of the cancellation order in this **Federal Register**, unless other restrictions have been imposed. Thereafter, registrants will be prohibited from selling or distributing the products whose labels include the terminated uses identified in Table 2 of Unit II, except for export consistent with FIFRA section 17 or for proper disposal.

Persons other than the registrant may sell, distribute, or use existing stocks of canceled products and products whose labels include the terminated uses until supplies are exhausted, provided that such sale, distribution, or use is consistent with the terms of the previously approved labeling on, or that accompanied, the canceled products and terminated uses.

Authority: 7 U.S.C. 136 *et seq.*

Dated: March 5, 2019.

Delores Barber,

Director, Information Technology and Resources Management Division, Office of Pesticide Programs.

[FR Doc. 2019–05157 Filed 3–18–19; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL RESERVE SYSTEM

Notice of Proposals To Engage in or To Acquire Companies Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y, (12 CFR part 225) to engage *de novo,* or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than April 3, 2019.

A. Federal Reserve Bank of Minneapolis (Mark A. Rauzi, Vice President), 90 Hennepin Avenue, Minneapolis, Minnesota 55480–0291:

1. Security Bancshares of Bemidji, Inc., Bemidji, Minnesota; to engage de novo in extending credit and servicing activities pursuant to section 225.28(b)(1) of Regulation Y.

Board of Governors of the Federal Reserve System, March 14, 2019.

Yao-Chin Chao,

Assistant Secretary of the Board.

[FR Doc. 2019–05162 Filed 3–18–19; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Notice, request for comment.

SUMMARY: The Board of Governors of the Federal Reserve System (Board) invites comment on a proposal to extend for three years, without revision, the Recordkeeping and Disclosure Requirements Associated with Regulation V (Fair Credit Reporting) (FR V [1]; OMB No. 7100–0308).

DATES: Comments must be submitted on or before May 20, 2019.

ADDRESSES: You may submit comments, identified by *FR V,* by any of the following methods:

- *Agency Website: http://www.federalreserve.gov.* Follow the instructions for submitting comments at *http://www.federalreserve.gov/apps/foia/proposedregs.aspx.*
- *Email: regs.comments@federalreserve.gov.* Include OMB number in the subject line of the message.
- *FAX:* (202) 452–3819 or (202) 452–3102.
- *Mail:* Ann E. Misback, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW, Washington, DC 20551.

All public comments are available from the Board's website at *http://www.federalreserve.gov/apps/foia/proposedregs.aspx* as submitted, unless modified for technical reasons. Accordingly, your comments will not be edited to remove any identifying or contact information. Public comments may also be viewed electronically or in paper in Room 146, 1709 New York Avenue NW, Washington, DC 20006, between 9:00 a.m. and 5:00 p.m. on weekdays. For security reasons, the Board requires that visitors make an appointment to inspect comments. You may do so by calling (202) 452–3684. Upon arrival, visitors will be required to present valid government-issued photo identification and to submit to security screening in order to inspect and photocopy comments.

Additionally, commenters may send a copy of their comments to the OMB Desk Officer—Shagufta Ahmed—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street NW, Washington, DC 20503, or by fax to (202) 395–6974.

FOR FURTHER INFORMATION CONTACT: A copy of the PRA OMB submission, including the proposed reporting form and instructions, supporting statement, and other documentation will be placed into OMB's public docket files, if approved. These documents will also be made available on the Board's public website at *http://www.federalreserve.gov/apps/reportforms/review.aspx* or may be requested from the agency clearance officer, whose name appears below.

Federal Reserve Board Clearance Officer—Nuha Elmaghrabi—Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, Washington, DC 20551, (202) 452–3829. Telecommunications Device for the Deaf (TDD) users may contact (202) 263–4869, Board of Governors of the Federal Reserve System, Washington, DC, 20551.

SUPPLEMENTARY INFORMATION: On June 15, 1984, the Office of Management and Budget (OMB) delegated to the Board authority under the Paperwork Reduction Act (PRA) to approve and assign OMB control numbers to collection of information requests and requirements conducted or sponsored by the Board. In exercising this delegated authority, the Board is directed to take every reasonable step to solicit comment. In determining whether to approve a collection of information, the Board will consider all comments received from the public and other agencies.

Request for Comment on Information Collection Proposal

The Board invites public comment on the following information collection, which is being reviewed under authority delegated by the OMB under the PRA. Comments are invited on the following:

a. Whether the proposed collection of information is necessary for the proper performance of the Board's functions, including whether the information has practical utility;

b. The accuracy of the Board's estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used;

c. Ways to enhance the quality, utility, and clarity of the information to be collected;

d. Ways to minimize the burden of information collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

e. Estimates of capital or startup costs and costs of operation, maintenance, and purchase of services to provide information.

At the end of the comment period, the comments and recommendations received will be analyzed to determine the extent to which the Board should modify the proposal.

Proposal Under OMB Delegated Authority To Extend for Three Years, Without Revision, the Following Information Collection

Report title: Recordkeeping and Disclosure Requirements Associated with Regulation V (Fair Credit Reporting).

Agency form number: FR V.

OMB control number: 7100–0308.

Frequency: Annually, monthly, and on occasion.

Respondents: Depository institutions identified in 15 U.S.C. 1681s(b)(1)(A)(ii): (1) regardless of size, with respect to the identity theft red flags provisions of the Board's Fair Credit Reporting Act (FCRA) regulations; and (2) with $10 billion or less in assets and any affiliates thereof, and consumers of such institutions, with respect to enforcing the Consumer Financial Protection Bureau's (Bureau's) FCRA regulations.

Estimated number of respondents: Negative information notice, 1,450 respondents; Affiliate marketing: Notices to consumers, 1,381 respondents, and Consumer opt-out response, 1,562,835 respondents; Identity theft red flags, 2,206 respondents; Address discrepancies, 1,450 respondents; Risk-based pricing: Notice to consumers, 1,450 respondents; Furnisher duties: Policies and procedures, 1,450 respondents, and Notice of frivolous disputes to consumers, 1,450 respondents.

Estimated average hours per response: Negative information notice, 0.25 hour; Affiliate marketing: Notices to consumers, 18 hours, and Consumer opt-out response, 0.08 hour; Identity theft red flags, 37 hours; Address discrepancies, 4 hours; Risk-based pricing: Notice to consumers, 5 hours; Furnisher duties: Policies and procedures, 40 hours, and Notice of

[1] The internal Agency Tracking Number previously assigned by the Board to this information collection was ''Reg V.'' The Board is changing the internal Agency Tracking Number for the purpose of consistency.

frivolous disputes to consumers, 0.23 hour.

Estimated annual burden hours: Negative information notice, 363 hours; Affiliate marketing: Notices to consumers, 24,858 hours, and Consumer opt-out response, 125,027 hours; Identity theft red flags, 81,622 hours; Address discrepancies, 5,800 hours; Risk-based pricing: Notice to consumers, 87,000 hours; Furnisher duties: Policies and procedures, 58,000 hours, and Notice of frivolous disputes to consumers, 140,737 hours.

General description of report: The FCRA was enacted in 1970 based on a Congressional finding that the banking system is dependent on fair and accurate credit reporting.[2] The FCRA requires consumer reporting agencies to adopt reasonable procedures that are fair and equitable to the consumer with regard to the confidentiality, accuracy, relevancy, and proper utilization of consumer information.[3] The Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act), enacted in 2010, transferred to the Bureau most, but not all, of the rulemaking authority for issuing regulations under the FCRA.[4] The Board and other federal agencies retained rulemaking responsibility for the FCRA provisions regarding identity theft prevention programs and the duties of card issuers to validate consumers' changes of address (hereinafter, identity theft red flags), as well as the disposal of consumer information, with respect to the entities that are subject to each agency's respective enforcement authority.[5] The Board and Federal Trade Commission (FTC) also retained rulemaking authority for certain provisions of the FCRA applicable to motor vehicle dealers.[6] In addition, the Board is authorized to enforce compliance with the information collection requirements contained in the Bureau's FCRA regulations applicable to institutions[7] identified in 15 U.S.C. 1681s(b)(1)(A)(ii) with $10 billion or less in assets, and applicable to consumers of these institutions.

Legal authorization and confidentiality:

As amended by sections 1025 and 1088(a)(10) of the Dodd-Frank Act, the Board is authorized to enforce compliance with the information collection requirements contained in the Bureau's FCRA regulations (Appendix B to 12 CFR part 1022; and 12 CFR 1022.20–.27, 1022.40–.43, 1022.70–.75, and 1022.82) applicable to institutions identified in 15 U.S.C. 1681s(b)(1)(A)(ii) with $10 billion or less in assets, and applicable to consumers of these institutions (*See* 15 U.S.C. 1681s(b); 12 U.S.C. 5515). Additionally, pursuant to section 1088(a)(2) and (10) of the Dodd-Frank Act, the Board retained authority under the FCRA to prescribe and enforce the information collection requirements in the Board's FCRA regulations relating to identity theft red flags (12 CFR 222.90–.91) for institutions of any size, which are identified in 15 U.S.C. 1681s(b)(1)(A)(ii) (See 15 U.S.C. 1681m(e), and 1681s(b) and (e)).

The obligation to comply with the foregoing recordkeeping and disclosure requirements contained in the FCRA regulations prescribed by the Board and the FCRA regulations prescribed by the Bureau is mandatory, except for the consumer opt-out responses, which consumers are required to submit to affiliates of an institution in order to obtain a benefit (*i.e.,* to stop receiving solicitations for marketing purposes). Because the records and disclosures required under the Board's FCRA regulations and the Bureau's FCRA regulations are not provided to the Board, and because all records are maintained at Board-supervised institutions, no issue of confidentiality generally arises under the Freedom of Information Act (FOIA). In the event such records or disclosures are obtained by the Board as part of an examination or supervision of a financial institution, this information is considered confidential pursuant to exemption 8 of the FOIA, which protects information contained in ''examination, operating, or condition reports'' obtained in the bank supervisory process (5 U.S.C. 552(b)(8)). In addition, certain information (such as records generated during the investigation of a direct dispute notice submitted by a consumer) may also be withheld under exemption 6 of the FOIA, which protects from disclosure information that ''would constitute a clearly unwarranted invasion of personal privacy'' (5 U.S.C. 552(b)(6)).

Board of Governors of the Federal Reserve System, March 14, 2019.

Michele Taylor Fennell,

Assistant Secretary of the Board.

[FR Doc. 2019–05095 Filed 3–18–19; 8:45 am]

BILLING CODE 6210–01–P

[2] The FCRA is one part of the Consumer Credit Protection Act, which also includes the Truth in Lending Act, Equal Credit Opportunity Act, and Fair Debt Collection Practices Act. *See* 15 U.S.C. 1601 *et seq.*

[3] *See* 15 U.S.C. 1681.

[4] The Bureau and the Board each have issued regulations implementing the FCRA. On December 21, 2011, the Bureau published an interim final rule establishing a new Regulation V. *See* 76 FR 79308 (Dec. 21, 2011), implementing the Bureau's FCRA regulations in 12 CFR part 1022. The information collection provisions in the Bureau's FCRA regulations are contained in Appendix B to 12 CFR part 1022; and in 12 CFR 1022.20–.27, 1022.40–.43, 1022.70–.75, and 1022.82. The Board's FCRA regulations are implemented in the Board's Regulation V. *See* 12 CFR part 222. The information collection provisions in the Board's FCRA regulations applicable to institutions for which the Board has primary enforcement authority are contained in 12 CFR 222.90–.91.

[5] *See* section 1088(a)(10) of the Dodd-Frank Act, 15 U.S.C. 1681s(b) & (e); *see also* 15 U.S.C. 1681m and 1681w.

[6] *See* section 1029 of the Dodd-Frank Act, 12 U.S.C. 5519(a) & (c), which provides generally that rulemaking authority for provisions of the federal consumer financial laws, including the FCRA, applicable to certain motor vehicle dealers are not within the Bureau's jurisdiction and must be implemented in regulations issued by the Board or the FTC. The FTC accounts for the PRA burden for motor vehicle dealers' compliance with the FCRA regulations. *See, e.g., 78 FR 16265,* 16266 n. 11 (Mar. 14, 2013).

[7] Pursuant to the Dodd-Frank Act, for certain federal consumer financial laws, the Bureau has primary enforcement authority over the Bureau's FCRA regulations with respect to, among other entities, insured depository institutions (banks and savings associations) with over $10 billion in assets and any affiliates thereof. *See* 12 U.S.C. 5515; *see also* 12 U.S.C. 5514(a) and 5516. However, the Board retained enforcement authority over the Bureau's FCRA regulations with respect to depository institutions identified in 15 U.S.C. 1681s(b)(1)(A)(ii) with $10 billion or less in assets and consumers of these institutions. *See* 15 U.S.C. 1681s(b); and 12 U.S.C. 5515.

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (''Act'') (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than April 3, 2019.

A. Federal Reserve Bank of Chicago (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. *John L. Cox, Burr Ridge, Illinois, individually as Special Trustee of the following ten trusts, and together as a group acting in concert with the John L. Cox GST Trust, John L. Cox as Trustee, Edward A. Cox, III GST Trust, Edward*

A. Cox, III as Trustee, Fontana, Wisconsin, Maureen T. Cox-Scanlon GST Trust, Maureen T. Cox-Scanlon as Trustee, Downers Grove, Illinois, Michael J. Cox GST Trust, Michael J. Cox as Trustee, Rosemary P. Cox-Conway GST Trust, Rosemary P. Cox-Conway as Trustee, Thomas M. Cox GST Trust, Thomas M. Cox as Trustee, Robert J. Cox GST Trust, Robert J. Cox as Trustee, Catherine M. Cox Murphy GST Trust, Catherine M. Cox Murphy as Trustee, Margaret M. Cox-Petrucelli GST Trust, Margaret M. Cox-Petrucelli as Trustee, Mary H. Cox-Coffey GST Trust, and Mary H. Cox Coffey as Trustee, all of Oak Brook, Illinois; to acquire 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 14, 2019.

Yao-Chin Chao,

Assistant Secretary of the Board.

[FR Doc. 2019–05161 Filed 3–18–19; 8:45 am]

BILLING CODE P

FEDERAL TRADE COMMISSION

Agency Information Collection Activities; Proposed Collection; Comment Request

AGENCY: Federal Trade Commission (FTC or Commission).

ACTION: Notice.

SUMMARY: The FTC plans to ask the Office of Management and Budget (''OMB'') to extend for an additional three years the current Paperwork Reduction Act (''PRA'') clearance for information collection requirements contained in the Mail, internet, or Telephone Order Merchandise Rule (MITOR). That clearance expires on May 31, 2019.

DATES: Comments must be received on or before May 20, 2019.

ADDRESSES: Interested parties may file a comment online or on paper by following the instructions in the Request for Comments part of the **SUPPLEMENTARY INFORMATION** section below. Write ''Paperwork Reduction Act: FTC File No. P072108'' on your comment, and file your comment online at *https://www.regulations.gov* by following the instructions on the web-based form. If you prefer to file your comment on paper, mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Suite CC–5610 (Annex J), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW, 5th Floor, Suite 5610 (Annex J), Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: Jock Chung, 202–326–2984, Attorney, Enforcement Division, Bureau of Consumer Protection, 600 Pennsylvania Avenue NW, Mail Drop CC–9528, Washington, DC 20580.

SUPPLEMENTARY INFORMATION: Originally known as the Mail Order Merchandise Rule, the MITOR, 16 CFR part 435 was promulgated in 1975 in response to consumer complaints that many merchants were failing to ship merchandise ordered by mail on time, failing to ship at all, or failing to provide prompt refunds for unshipped merchandise. The Commission amended the Rule, effective on March 1, 1994, to include merchandise ordered by telephone, including by telefax or by computer through the use of a modem (*e.g.,* internet sales), and renamed it the ''Mail or Telephone Order Merchandise Rule.'' In 2014, the Commission amended the Rule, effective December 8, 2014, to clarify that the Rule covers all internet merchandise orders and permits flexibility in making refunds and refund notices, including refund obligations for non-enumerated payments. 79 FR 55615 (Sept. 17, 2014).

Generally, the MITOR requires a merchant to: (1) Have a reasonable basis for any express or implied shipment representation made in soliciting the sale (if no express time period is promised, the implied shipment representation is 30 days); (2) notify the consumer and obtain the consumer's consent to any delay in shipment; and (3) make prompt and full refunds when the consumer exercises a cancellation option or the merchant is unable to meet the Rule's other requirements.[1]

Under the PRA, 44 U.S.C. 3501–3521, Federal agencies must get OMB approval for each collection of information they conduct or sponsor. ''Collection of information'' includes agency requests or requirements to submit reports, keep records, or provide information to a third party. 44 U.S.C. 3502(3); 5 CFR 1320.3(c). The FTC is seeking renewed clearance for the information collection requirements associated with the Commission's rules and regulations under the MITOR (OMB Control Number 3084–0106).

Burden Estimates

Estimated total annual hours burden: 2,692,350 hours.

In its 2016 PRA-related **Federal Register** Notices[2] and corresponding submission to OMB, FTC staff estimated that established companies each spend an average of 50 hours per year on compliance with the Rule, and that new industry entrants spend an average of 230 hours (an industry estimate) for compliance measures associated with start-up.[3] Thus, the total estimated hours burden was calculated by multiplying the estimated number of established companies × 50 hours, multiplying the estimated number of new entrants × 230 hours, and adding the two products.

No substantive provisions in the Rule have been amended or changed since staff's 2016 submission to OMB. Thus, the Rule's disclosure requirements remain the same. Moreover, the Commission received no public comments regarding the above-noted estimates; thus, staff will apply them to the current PRA burden analysis.

Since the prior submission to OMB, however, the number of businesses engaged in the sale of merchandise subject to the MITOR has increased. The most currently available data from the U.S. Census Bureau indicates that, between 2005 and 2016, the number of businesses subject to the MITOR grew from 15,924 to 37,206, or an average increase of 1,935 new businesses a year [(37,206 businesses in 2016 − 15,924 businesses in 2005) ÷ 11 years].[4] Assuming this growth rate continues in 2019 through 2022, the average number of established businesses during the three-year period for which OMB

[1] The MITOR does not impose a recordkeeping requirement *per se.* Title 16 CFR 435.1(d) provides, however, that in an action for noncompliance, the absence of records that establish that a respondent-seller uses systems and procedures to assure compliance will create a rebuttable presumption that the seller was not compliant. Merchants customarily keep records regarding their systems and procedures in the ordinary course of business, but their retention of these documents does not constitute a ''collection of information'' under OMB's regulations that implement the PRA. *See* 5 CFR 1320.3(b)(2).

[2] 81 FR 2860 (Jan. 19, 2016); 81 FR 21549 (Apr. 12, 2016).

[3] Most of the estimated start-up time relates to the development and installation of computer systems geared to more efficiently handle customer orders.

[4] Conceptually, this might understate the number of new entrants. Given the virtually unlimited diversity of retail establishments, it is very unlikely that there is a reliable external measure; nonetheless, as in the past, the Commission invites public comment that might better inform these estimates. For example, many online marketplace sellers that use Amazon.com Inc's marketplace to sell to customers have agreements which provide that Amazon handles packaging and shipping the products to customers. Whether Amazon.com is also the entity responsible for sending customers delay notices when necessary could affect which entity is subject to MITOR disclosure requirements, Amazon or the individual marketplace seller.

clearance is sought for the Rule would be 44,946: [5]

Year:	Established businesses	New entrants
2019–20	43,011	1,935
2020–21	44,946	1,935
2021–22	46,881	1,935
Average:	44,946	1,935

In an average year during the three-year OMB clearance period, staff estimates that established businesses and new entrants will devote 2,692,350 hours to comply with the MITOR [(44,946 established businesses × 50 hours) + (1,935 new entrants × 230 hours) = 2,692,350].

The estimated PRA burden per merchant to comply with the MITOR is likely overstated because much of the estimated time burden for disclosure-related compliance would arguably be incurred even absent the Rule. Over the years, industry trade associations and individual witnesses have consistently taken the position that providing consumers with notice about the status of their orders fosters consumer loyalty and encourages repeat purchases, which are important to marketers' success. In recent years, the demands of the internet's online marketplace and its leading retailers such as *Amazon.com*, *Walmart.com*, and *Ebay.com* have driven many businesses to upgrade the information management systems to track and ship orders more effectively.[6] These upgrades were primarily prompted by the industry's need to deal with growing consumer demand for merchandise that is timely shipped. Accordingly, most companies now provide updated order information of the kind required by the Rule in their ordinary course of business to meet consumer expectations regarding timely shipment, notification of delay, and prompt and full refunds.[7]

Estimated labor costs: $63,862,542.

FTC staff derived labor costs by applying appropriate hourly cost figures to the burden hours described above. According to the most recent data available from the Bureau of Labor and Statistics,[8] the mean hourly income for workers in sales and related occupations was $23.72/hour. The bulk of the burden of complying with the MITOR is borne by clerical personnel along with assistance from sales personnel. Staff believes that the mean hourly income for workers in sales and related occupations is an appropriate measure of a direct marketer's average labor cost to comply with the Rule. Thus, the total annual labor cost to new and established businesses for MITOR compliance during the three-year period for which OMB approval is sought would be approximately $63,862,542 (2,692,350 hours × $23.72/hr.). Relative to direct industry sales, this total is negligible.[9]

Estimated annual non-labor cost burden: $0 or minimal.

The applicable requirements impose minimal start-up costs, as businesses subject to the Rule generally have or obtain necessary equipment for other business purposes, *i.e.,* inventory and order management, and customer relations. For the same reason, staff anticipates printing and copying costs to be minimal, especially given that mail, internet, and telephone order merchants have increasingly turned to electronic communications to notify consumers of delay and to provide cancellation options. Staff believes that the above requirements necessitate ongoing, regular training so that covered entities stay current and have a clear understanding of federal mandates, but that this would be a small portion of, and subsumed within, the ordinary training that employees receive apart from that associated with the information collected under the Rule.

Request for Comments

The FTC invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond.

You can file a comment online or on paper. For the FTC to consider your comment, we must receive it on or before May 20, 2019. Write ''Paperwork Reduction Act: FTC File No. P072108'' on your comment. Postal mail addressed to the Commission is subject to delay due to heightened security screening. As a result, we encourage you to submit your comments online, or to send them to the Commission by courier or overnight service. To make sure that the Commission considers your online comment, you must file it through the *https://www.regulations.gov* website by following the instructions on the web-based form. Your comment—including your name and your state—will be placed on the public record of this proceeding, including, including the *https://www.regulations.gov* website. As a matter of discretion, the Commission tries to remove individuals' home contact information from comments before placing them on *www.regulations.gov*.

If you file your comment on paper, write ''Paperwork Reduction Act: FTC File No. P072108'' on your comment and on the envelope, and mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Suite CC–5610 (Annex J), Washington, DC 20580, or deliver your

[5] As noted above, the existing OMB clearance for the Rule expires on May 31, 2019, and the FTC is seeking to extend the clearance for three years.

[6] Brian Baskin, ''Amazon's Free Shipping Pushes Small Retailers, Delivery Firms to Compete,'' The Wall Street Journal, Apr. 8, 2017, *available at https://www.wsj.com/articles/amazons-free-shipping-pushes-small-retailers-delivery-firms-to-compete-1491649203.*

[7] Under the OMB regulation implementing the PRA, burden is defined to exclude any effort that would be expended regardless of any regulatory requirement. 5 CFR 1320.3(b)(2).

[8] *See* Table 1, National employment and wage data from the Occupational Employment Statistics survey by occupation, May 2017, at *https://www.bls.gov/news.release/ocwage.t01.htm.*

[9] Considering that sales for ''electronic shopping and mail order houses'' grew from $295 billion in 2011 to $434 billion in 2015 (according to ''Estimated Annual U.S. Retail Trade Sales—Total and E-commerce: 1998–2015,'' available at *https://www.census.gov/data/tables/2015/econ/arts/annual-report.html,* staff estimates the annual mail, internet, or telephone sales to consumers in the three-year period for which OMB clearance is sought will average $607 billion. Thus, the projected average labor cost for MITOR compliance by existing and new businesses for that period would amount to 0.01% of sales.

comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW, 5th Floor, Suite 5610 (Annex J), Washington, DC 20024. If possible, submit your paper comment to the Commission by courier or overnight service.

Because your comment will be placed on the publicly accessible FTC website at *www.regulations.gov,* you are solely responsible for making sure that your comment does not include any sensitive or confidential information. In particular, your comment should not include any sensitive personal information, such as your or anyone else's Social Security number; date of birth; driver's license number or other state identification number, or foreign country equivalent; passport number; financial account number; or credit or debit card number. You are also solely responsible for making sure that your comment does not include any sensitive health information, such as medical records or other individually identifiable health information. In addition, your comment should not include any ''trade secret or any commercial or financial information which . . . . is privileged or confidential''—as provided by Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2)—including in particular competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

Comments containing material for which confidential treatment is requested must be filed in paper form, must be clearly labeled ''Confidential,'' and must comply with FTC Rule 4.9(c). In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. See FTC Rule 4.9(c). Your comment will be kept confidential only if the General Counsel grants your request in accordance with the law and the public interest. Once your comment has been posted publicly at *www.regulations.gov,* we cannot redact or remove your comment unless you submit a confidentiality request that meets the requirements for such treatment under FTC Rule 4.9(c), and the General Counsel grants that request.

The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives on or before May 20, 2019. You can find more information, including routine uses permitted by the Privacy Act, in the Commission's privacy policy, at *https://www.ftc.gov/site-information/privacy-policy.*

Heather Hippsley,

Deputy General Counsel.

[FR Doc. 2019–05081 Filed 3–18–19; 8:45 am]

BILLING CODE 6750–01–P

FEDERAL TRADE COMMISSION

Agency Information Collection Activities; Proposed Collection; Comment Request; Extension

AGENCY: Federal Trade Commission (''FTC'' or ''Commission'').

ACTION: Notice.

SUMMARY: The FTC intends to ask the Office of Management and Budget (''OMB'') to extend for an additional three years the current Paperwork Reduction Act (''PRA'') clearance for the FTC's enforcement of the information collection requirements in its regulation ''Duties of Furnishers of Information to Consumer Reporting Agencies'' (''Information Furnishers Rule''), which applies to certain motor vehicle dealers, and its shared enforcement with the Bureau of Consumer Financial Protection (''BCFP'') of the furnisher provisions (subpart E) of the BCFP's Regulation V regarding other entities. That clearance expires on June 30, 2019.

DATES: Comments must be filed by May 20, 2019.

ADDRESSES: Interested parties may file a comment online or on paper, by following the instructions in the Request for Comment part of the **SUPPLEMENTARY INFORMATION** section below. Write ''Information Furnishers Rule, PRA Comment, P135407,'' on your comment and file your comment online at *https://www.regulations.gov/,* by following the instructions on the web-based form. If you prefer to file your comment on paper, mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Suite CC–5610 (Annex J), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW, 5th Floor, Suite 5610 (Annex J), Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: Tiffany George (202–326–3040), Attorney, Division of Privacy and Identity Protection, Bureau of Consumer Protection, 600 Pennsylvania Ave. NW, CC–8232, Washington, DC 20580.

SUPPLEMENTARY INFORMATION: Under the Dodd-Frank Act,[1] most of the FTC's rulemaking authority for the furnisher provisions of the Fair Credit Reporting Act (''FCRA'') [2] transferred to the BCFP. The FTC, however, retained its furnishers rulemaking authority for motor vehicle dealers that are predominantly engaged in the sale and servicing of motor vehicles, the leasing and servicing of motor vehicles, or both.[3] In addition, the FTC retained its authority to enforce the furnisher provisions of the FCRA and rules issued under those provisions. Thus, the FTC and BCFP have overlapping enforcement authority for many entities subject to BCFP's Regulation V (subpart E) and the FTC has sole enforcement authority for the motor vehicle dealers subject to the FTC rule.

Under section 660.3 of the FTC's Information Furnishers Rule [4] and section 1022.42 of the BCFP Rule,[5] furnishers must establish and implement reasonable written policies and procedures regarding the accuracy and integrity of the information relating to consumers that they furnish to a consumer reporting agency (''CRA'') for inclusion in a consumer report.[6] Section 660.4 of the FTC Rule and section 1022.43 of the BCFP Rule require that entities which furnish information about consumers to a CRA respond to direct disputes from consumers. These provisions also require that a furnisher notify consumers by mail or other means (if authorized by the consumer) within five business days after making a determination that a dispute is frivolous or irrelevant (''F/I dispute'').

Under the PRA, 44 U.S.C. 3501–3521, Federal agencies must get OMB approval for each collection of information they conduct or sponsor. ''Collection of information'' includes agency requests or requirements to submit reports, keep records, or provide information to a third party. 44 U.S.C.

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[1] Public Law 111–203, 124 Stat. 1376 (2010).

[2] 15 U.S.C. 1681 *et seq.*

[3] *See* Dodd-Frank Act, § 1029(a), (c).

[4] 16 CFR part 660.

[5] 12 CFR part 1022.

[6] The rule also provides that an entity is not a furnisher when it: Provides information to a CRA solely to obtain a consumer report for a permissible purpose under the FCRA; is acting as a CRA as defined in section 603(f) of the FCRA; is an individual consumer to whom the furnished information pertains; or is a neighbor, friend, or associate of the consumer, or another individual with whom the consumer is acquainted or who may have knowledge about the consumer's character, general reputation, personal characteristics, or mode of living in response to a specific request from a CRA.

3502(3); 5 CFR 1320.3(c). The FTC is seeking renewed clearance for its assumed share of the estimated PRA burden regarding the information furnisher requirements under the FTC and BCFP Rules.

Burden Statement

The FTC last submitted to OMB and received approval for its burden estimates for these furnisher rules on May 10, 2016. The discussion below updates and refines that analytical framework for purposes of renewing this PRA clearance.

The FTC's currently cleared burden totals are 10,607 hours with $488,148 in associated labor costs.[7] The newly revised estimates are 17,055 hours with $878,307 in associated labor costs. The estimated number of furnishers affected by the rules has increased from 3,986 to 7,210.[8] The estimated number of hours needed to comply remains unchanged. The labor cost estimates have been revised based on updated data. Estimated capital/non-labor costs remain $0 because the affected entities are already likely to have the necessary supplies and/or equipment (*e.g.,* offices and computers) for the information collections within the Rule. The details that follow calculate the FTC's revised burden hours estimates and updated labor cost estimates.

Section 660.3 of FTC Rule/Section 1022.42 of BCFP Rule

A. Burden Hours

Yearly recurring burden of 2 hours for training[9] to help ensure continued compliance regarding written policies and procedures for the accuracy and integrity of the information furnished to a CRA about consumers.

7,210 respondents × 2 hours for training = 14,420 hours

B. Labor Costs

Labor costs are derived by applying appropriate estimated hourly cost figures to the burden hours described above. The FTC assumes that respondents will use managerial and/or professional technical personnel to train company employees in order to foster continued compliance with the information furnisher requirements under the FTC and BCFP Rules.

14,420 hours × $56.58[10] = $815,884

Section 660.4 of FTC Rule/Section 1022.43 of BCFP Rule

A. Burden Hours

No recurring burden hours other than that necessary to prepare and distribute F/I notices (estimate: 14 minutes per notice[11]).

1. 21,720 total F/I disputes[12]
2. Motor vehicle dealer only furnisher disputes is assumed to be 4% of the total: 21,720 × .04 = 869 F/I disputes[13]
3. 20,851 respondents (21,720 − 869 FTC only) ÷ by 2 = 10,425 F/I disputes for the FTC co-jurisdiction
4. 869 FTC only F/I disputes + 10,425 additional F/I disputes = 11,294 F/I dispute notices for the FTC's jurisdiction
5. 11,294 F/I disputes × 14 minutes each = 2,635 hours

B. Labor Costs

Labor costs are derived by applying appropriate estimated hourly cost figures to the burden hours described above. The FTC assumes that respondents will use skilled administrative support personnel to provide the required F/I dispute notices to consumers.

2,635 hours × $23.69[14] = $62,423

Thus, total estimated burden under the above-noted regulatory sections is 17,055 hours and $878,307 labor costs.

Request for Comment: Pursuant to Section 3506(c)(2)(A) of the PRA, the FTC invites comments on: (1) Whether the disclosure requirements are necessary, including whether the information will be practically useful; (2) the accuracy of our burden estimates, including whether the methodology and assumptions used are valid; (3) how to improve the quality, utility, and clarity of the disclosure requirements; and (4) how to minimize the burden of providing the required information to consumers.

You can file a comment online or on paper. For the FTC to consider your comment, we must receive it on or before May 20, 2019. Write ''Information Furnishers Rule, PRA Comment, P135407'' on your comment. Postal mail addressed to the Commission is subject to delay due to heightened security screening. As a result, we encourage you to submit your comments online, or to send them to the Commission by courier or overnight service. To make sure that the Commission considers your online comment, you must file it through the *https://www.regulations.gov* website by following the instructions on the web-based form provided. Your comment—including your name and your state—will be placed on the public record of this proceeding, including the *https://www.regulations.gov* website. As a matter of discretion, the Commission tries to remove individuals' home

[7] OMB Control No. 3084–0144.

[8] The BCFP estimates that there are 16,000 furnishers, excluding motor vehicle dealers that are subject to the FTC's jurisdiction, with an allocation to that agency of 63% of the burden or 10,080 respondents. *See* BCFP Supporting Statement Part A, Fair Credit Reporting Act (Regulation V) 12 CFR 1022 (OMB Control Number: 3170–0002) (*https://www.reginfo.gov/public/do/PRAViewDocument?ref_nbr=201707-3170-002*). Allocating the remaining 37% of the burden to the FTC yields 5,920 respondents, excluding motor vehicle dealers that are subject to the FTC's jurisdiction. Based on figures obtained from the North American Industry Classification System (NAICS) Association's database of U.S. businesses, the FTC estimates that there are approximately 129,000 motor vehicle dealers determined as follows: 88,695 car dealers per NAICS data (53,549 new car dealers, 35,146 used car dealers) in addition to 4,023 Recreational Vehicle Dealers; 9,248 boat dealers; and 26,706 motorcycle, ATV/All Other Motor Vehicle Dealers. *See https://www.naics.com/six-digit-naics/?code=44-45.* It is difficult to determine precisely the number of motor vehicle dealers that are subject to the FTC's jurisdiction and that are furnishers. Given the restrictions in section 1029(a) of the Dodd-Frank Act that motor vehicle dealers subject to the FTC's jurisdiction are those that routinely assign consumer contracts governing retail credit to an unaffiliated third party finance source, Commission staff believes the number is *de minimis.* Accordingly, the FTC estimates that 1% of motor vehicle dealers subject to the FTC's jurisdiction are furnishers of information to CRAs or 1,290 respondents. Thus, 1,290 motor vehicle dealers + 5,920 other entities = 7,210 respondents for the FTC's burden calculations.

[9] 74 FR 31484, 31505 (July 1, 2009 FTC and Federal financial agencies final rules).

[10] *http://www.bls.gov/news.release/ocwage.nr0.htm:* ''Occupational Employment and Wages—May 2017,'' Bureau of Labor Statistics, U.S. Department of Labor, released March 30, 2018, Table 1 (''National employment and wage data from the Occupational Employment Statistics survey by occupation, May 2017) (hereinafter, ''BLS Table 1''). *See* mean hourly wage for ''Training and Development Managers.''

[11] 74 FR at 31505.

[12] *Id.* at 31506 n.58.

[13] FTC staff believes that 4% is a reasonable estimate based on recent data. See ''Key Dimensions and Processes in the U.S. Credit Reporting System: A review of how the nation's largest credit bureaus handle consumer data,'' December 2012, pp. 14, 29, 31, 34. The BCFP report noted that almost 40% of all consumer disputes at the nationwide CRAs, on average, can be linked to collections. It stated that collection trade lines generate significantly higher numbers of consumer disputes than other types of trade lines—specifically, four times higher than auto-related dispute rates. These figures seem to suggest that almost 10% of all consumer disputes at the nationwide CRAs, on average, can be linked to auto-related disputes. When the FTC issued its final Rule, FTC staff estimated that 40% of direct disputes would result in the sending of F/I dispute notices. See 74 FR 31506 n.58. The FTC's estimate of 4% is based on taking forty percent of the 10% of all consumer disputes at the nationwide CRAs, on average, linked to auto loans.

[14] The revised figure is an average of Bureau of Labor Statistics mean hourly wages for potentially analogous employee types: First-line supervisors of office and administrative support workers ($28.14); bookkeeping, accounting, and auditing clerks ($19.76); brokerage clerks ($25.41); eligibility interviewers, government programs ($21.45). See BLS Table 1. This averages to $23.69 per hour, rounded.

contact information from comments before placing them on the *regulations.gov* site.

If you file your comment on paper, write ''Paperwork Comment: FTC File No. P135407'' on your comment and on the envelope, and mail it to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Suite CC–5610 (Annex J), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW, 5th Floor, Suite 5610 (Annex J), Washington, DC 20024. If possible, submit your paper comment to the Commission by courier or overnight service.

Because your comment will be placed on the publicly accessible website at *www.regulations.gov,* you are solely responsible for making sure that your comment does not include any sensitive or confidential information. In particular, your comment should not include any sensitive personal information, such as your or anyone else's Social Security number; date of birth; driver's license number or other state identification number, or foreign country equivalent; passport number; financial account number; or credit or debit card number. You are also solely responsible for making sure that your comment does not include any sensitive health information, such as medical records or other individually identifiable health information. In addition, your comment should not include any ''trade secret or any commercial or financial information which . . . is privileged or confidential''—as provided by Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2)—including in particular competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

Comments containing material for which confidential treatment is requested must be filed in paper form, must be clearly labeled ''Confidential,'' and must comply with FTC Rule 4.9(c). In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. *See* FTC Rule 4.9(c). Your comment will be kept confidential only if the General Counsel grants your request in accordance with the law and the public interest. Once your comment has been posted publicly at *www.regulations.gov,* we cannot redact or remove your comment unless you submit a confidentiality request that meets the requirements for such treatment under FTC Rule 4.9(c), and the General Counsel grants that request.

The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives on or before May 20, 2019. For information on the Commission's privacy policy, including routine uses permitted by the Privacy Act, see *https://www.ftc.gov/site-information/privacy-policy.*

Heather Hippsley,

Deputy General Counsel.

[FR Doc. 2019–05082 Filed 3–18–19; 8:45 am]

BILLING CODE 6750–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Supplemental Evidence and Data Request on Nonopioid Pharmacologic Treatments for Chronic Pain

AGENCY: Agency for Healthcare Research and Quality (AHRQ), HHS.

ACTION: Request for supplemental evidence and data submissions.

SUMMARY: The Agency for Healthcare Research and Quality (AHRQ) is seeking scientific information submissions from the public. Scientific information is being solicited to inform our review on *Nonopioid Pharmacologic Treatments for Chronic Pain,* which is currently being conducted by the AHRQ's Evidence-based Practice Centers (EPC) Program. Access to published and unpublished pertinent scientific information will improve the quality of this review.

DATES: *Submission Deadline* on or before April 18, 2019.

ADDRESSES:

Email submissions: epc@ahrq.hhs.gov.

Print submissions:

Mailing Address: Center for Evidence and Practice Improvement, Agency for Healthcare Research and Quality, ATTN: EPC SEADs Coordinator, 5600 Fishers Lane, Mail Stop 06E53A, Rockville, MD 20857.

Shipping Address (FedEx, UPS, etc.): Center for Evidence and Practice Improvement, Agency for Healthcare Research and Quality, ATTN: EPC SEADs Coordinator, 5600 Fishers Lane, Mail Stop 06E77D, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Jenae Benns, Telephone: 301–427–1496 or Email: *epc@ahrq.hhs.gov.*

SUPPLEMENTARY INFORMATION: The Agency for Healthcare Research and Quality has commissioned the Evidence-based Practice Centers (EPC) Program to complete a review of the evidence for *Nonopioid Pharmacologic Treatments for Chronic Pain.* AHRQ is conducting this systematic review pursuant to Section 902(a) of the Public Health Service Act, 42 U.S.C. 299a(a).

The EPC Program is dedicated to identifying as many studies as possible that are relevant to the questions for each of its reviews. In order to do so, we are supplementing the usual manual and electronic database searches of the literature by requesting information from the public (*e.g.,* details of studies conducted). We are looking for studies that report on *Nonopioid Pharmacologic Treatments for Chronic Pain,* including those that describe adverse events. The entire research protocol is available online at: *https://effectivehealthcare.ahrq.gov/topics/nonopioid-chronic-pain/protocol.*

This is to notify the public that the EPC Program would find the following information on Nonopioid Pharmacologic Treatments for Chronic Pain helpful:

- A list of completed studies that your organization has sponsored for this indication. In the list, please *indicate whether results are available on ClinicalTrials.gov along with the ClinicalTrials.gov trial number.*
- *For completed studies that do not have results on ClinicalTrials.gov,* please provide a summary, including the following elements: Study number, study period, design, methodology, indication and diagnosis, proper use instructions, inclusion and exclusion criteria, primary and secondary outcomes, baseline characteristics, number of patients screened/eligible/enrolled/lost to follow-up/withdrawn/analyzed, effectiveness/efficacy, and safety results.
- *A list of ongoing studies that your organization has sponsored for this indication.* In the list, please provide the *ClinicalTrials.gov* trial number or, if the trial is not registered, the protocol for the study including a study number, the study period, design, methodology, indication and diagnosis, proper use instructions, inclusion and exclusion criteria, and primary and secondary outcomes.

▪ Description of whether the above studies constitute ALL Phase II and above clinical trials sponsored by your organization for this indication and an index outlining the relevant information in each submitted file.

Your contribution will be very beneficial to the EPC Program. Materials submitted must be publicly available or able to be made public. Materials that are considered confidential; marketing materials; study types not included in the review; or information on indications not included in the review cannot be used by the EPC Program. This is a voluntary request for information, and all costs for complying with this request must be borne by the submitter.

The draft of this review will be posted on AHRQ's EPC Program website and available for public comment for a period of 4 weeks. If you would like to be notified when the draft is posted, please sign up for the email list at: *https://www.effectivehealthcare.ahrq.gov/email-updates.*

The systematic review will answer the following questions. This information is provided as background. AHRQ is not requesting that the public provide answers to these questions.

The Key Questions

Key Question 1. Effectiveness and Comparative Effectiveness

a. In patients with chronic pain, what is the effectiveness of nonopioid pharmacologic agents versus placebo for outcomes related to pain, function, and quality of life, after short-term treatment duration (3 to 6 months), intermediate-term treatment duration (6 to 12 months), and long-term treatment duration (≥12 months)?

b. In patients with chronic pain, what is the comparative effectiveness of nonopioid pharmacologic agents compared to other nonopioid pharmacologic agents for outcomes related to pain, function, and quality of life, after short-term treatment duration (3 to 6 months), intermediate-term treatment duration (6 to 12 months), and long-term treatment duration (≥12 months)?

c. *How does effectiveness or comparative effectiveness vary depending on:* (1) The specific type or cause of pain, (2) patient demographics, (3) patient comorbidities, (4) the dose of medication used, (5) the duration of treatment, and (6) dose titration, including tapering.

Key Question 2. Harms and Adverse Events

a. In patients with chronic pain, what are the risks of nonopioid pharmacologic agents for harms including overdose, misuse, dependence, withdrawals due to adverse events, and serious adverse events (including falls, fractures, motor vehicle accidents), and specific adverse events, according to drug class?

b. *How do harms vary depending on:* (1) The specific type or cause of pain, (2) patient demographics, (3) patient comorbidities, (4) the dose of medication used, (5) the duration of treatment, and (6) dose titration, including tapering.

PICOTS (Populations, Interventions, Comparators, Outcomes, Timing, Settings) Population(s):

- *For all Key Questions (KQs):* Adults (age ≥18 years) with various types of chronic pain (defined as pain lasting >3 months), including patients with acute exacerbations of chronic pain, pregnant/breastfeeding women, and patients with opioid use disorder
- *For KQs 1c, 2b:* Subgroups of the above patient populations as defined by specific pain condition (neuropathic pain, musculoskeletal pain, fibromyalgia, inflammatory arthritis, and chronic headache), patient demographics (*e.g.,* age, race, ethnicity, and sex), comorbidities and degree of nociplasticity/central sensitization.

Interventions:

- Oral pharmacologic agents: Nonsteroidal anti-inflammatory drugs, acetaminophen, muscle relaxants (including benzodiazepines), antidepressants, and anticonvulsants
- Topical pharmacologic agents: diclofenac, capsaicin, and lidocaine
- Medical cannabis (any formulation)

Comparators:

- For KQ 1a/c and KQ2: Placebo (effectiveness)
- For KQ 1b/c and KQ2: Another included nonopioid pharmacologic agent, different doses, or treatment durations (comparative effectiveness)

Outcomes:

- KQ 1: Pain (intensity, severity, bothersomeness), function (physical disability, activity limitations, activity interference, work function), and quality of life (including depression)
  - o Only validated scales for assessments of pain, function, and quality of life
- KQ 2: For all drug classes: Overdose, misuse, dependence, withdrawals due to adverse events, and serious adverse events. Specific adverse events for each drug class, such as gastrointestinal events, cardiovascular events, and liver or kidney-related harms for non-steroidal anti-inflammatory drugs; weight gain, sedation, and cognitive effects for gabapentin and pregabalin, etc.

Timing:

- Short-term treatment duration (3 to 6 months), intermediate-term treatment duration (6 to 12 months), and long-term treatment duration (≥12 months)
- We will assess available literature to ensure that adequate evidence exists from studies of ≥3 months' treatment duration. If adequate evidence is not available for this shorter-duration, we will consider adding shorter-duration studies. If high-quality systematic reviews are available covering the scope of the review for shorter duration studies, we will summarize these in this case

Settings:

- Outpatient settings (*e.g.,* primary care, pain clinics, other specialty clinics)

Gopal Khanna,

Director.

[FR Doc. 2019–05142 Filed 3–18–19; 8:45 am]

BILLING CODE 4160–90–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Agency for Healthcare Research and Quality, HHS.

ACTION: Notice.

SUMMARY: This notice announces the intention of the Agency for Healthcare Research and Quality (AHRQ) to request that the Office of Management and Budget (OMB) approve the proposed information collection project: ''*Hospital Survey on Patient Safety Culture Comparative Database.*''

DATES: Comments on this notice must be received by May 20, 2019.

ADDRESSES: Written comments should be submitted to: Doris Lefkowitz, Reports Clearance Officer, AHRQ, by email at *doris.lefkowitz@AHRQ.hhs.gov*.

Copies of the proposed collection plans, data collection instruments, and specific details on the estimated burden can be obtained from the AHRQ Reports Clearance Officer.

FOR FURTHER INFORMATION CONTACT: Doris Lefkowitz, AHRQ Reports Clearance Officer, (301) 427–1477, or by

emails at *doris.lefkowitz@AHRQ.hhs.gov*.

SUPPLEMENTARY INFORMATION:

Proposed Project

''*Hospital Survey on Patient Safety Culture Comparative Database.*''

In accordance with the Paperwork Reduction Act, 44 U.S.C. 3501–3521, AHRQ invites the public to comment on this proposed information collection. The Hospital Survey on Patient Safety Culture (Hospital SOPS) is designed to enable hospitals to assess provider and staff perspectives about patient safety issues, medical error, and error reporting. The Hospital SOPS includes 42 items that measure 12 composites of patient safety culture. AHRQ first made the Hospital SOPS publicly available, along with a Survey User's Guide and other toolkit materials, in November 2004 on the AHRQ website.

The Hospital Survey on Patient Safety Culture Comparative Database (Hospital SOPS Database) consists of data from the Hospital SOPS and may include reportable, non-required supplemental items. Hospitals in the U.S. can voluntarily submit data from the survey to AHRQ, through its contractor, Westat. The Hospital SOPS Database (OMB NO. 0935–0162, last approved on September 30, 2016) was developed by AHRQ in 2006 in response to requests from hospitals interested in tracking their own survey results. Those organizations submitting data receive a feedback report, as well as a report of the aggregated de-identified findings of the other hospitals submitting data. These reports are used to assist hospital staff in their efforts to improve patient safety culture in their organizations.

Rationale for the Information Collection

The Hospital SOPS and the Hospital SOPS Database support AHRQ's goals of promoting improvements in the quality and safety of health care in hospital settings. The survey, toolkit materials, and database results are all made publicly available on AHRQ's website. Technical assistance is provided by AHRQ through its contractor at no charge to hospitals, to facilitate the use of these materials for hospital patient safety and quality improvement.

This database will:

1. Present results from hospitals that voluntarily submit their data,
2. provide data to hospitals to facilitate internal assessment and learning in the patient safety improvement process, and
3. provide supplemental information to help hospitals identify their strengths and areas with potential for improvement in patient safety culture.

This study is being conducted by AHRQ through its contractor, Westat, pursuant to AHRQ's statutory authority to conduct and support research on health care and on systems for the delivery of such care, including activities with respect to the quality, effectiveness, efficiency, appropriateness and value of health care services and with respect to surveys and database development. 42 U.S.C. 299a(a)(1) and (8)

Method of Collection

To achieve the goal of this project the following activities and data collections will be implemented:

1. Eligibility and Registration Form—The hospital point-of-contact (POC) completes a number of data submission steps and forms, beginning with the completion of an online Eligibility and Registration Form. The purpose of this form is to collect basic demographic information about the hospital and initiate the registration process.
2. Data Use Agreement—The purpose of the data use agreement, completed by the hospital POC, is to state how data submitted by hospitals will be used and provide privacy assurances.
3. Hospital Site Information Form—The purpose of the site information form, also completed by the hospital POC, is to collect background characteristics of the hospital. This information will be used to analyze data collected with the Hospital SOPS survey.
4. Data Files Submission—POCs upload their data file(s), using hospital data file specifications, to ensure that users submit standardized and consistent data in the way variables are named, coded, and formatted. The number of submissions to the database is likely to vary each year because hospitals do not administer the survey and submit data every year. Data submission is typically handled by one POC who is either a patient safety manager in the hospital or a survey vendor who contracts with a hospital to collect and submit their data. POCs submit data on behalf of 3 hospitals, on average, because many hospitals are part of a health system that includes many hospitals, or the POC is a vendor that is submitting data for multiple hospitals.

Estimated Annual Respondent Burden

Exhibit 1 shows the estimated annualized burden hours for the respondents' time to participate in the database. An estimated 340 POCs, each representing an average of 3 individual hospitals each, will complete the database submission steps and forms annually. Each POC will submit the following:

- Eligibility and registration form (completion is estimated to take about 3 minutes).
- Data Use Agreement (completion is estimated to take about 3 minutes).
- Hospital Information Form (completion is estimated to take about 5 minutes).
- Survey data submission will take an average of one hour.

The total annual burden hours are estimated to be 459 hours. Exhibit 2 shows the estimated annualized cost burden based on the respondents' time to submit their data. The cost burden is estimated to be $26,572 annually.

EXHIBIT 1—ESTIMATED ANNUALIZED BURDEN HOURS

Form name	Number of respondents/POCs	Number of responses per POC	Hours per response	Total burden hours
Eligibility/Registration Form	340	1	3/60	17
Data Use Agreement	340	1	3/60	17
Hospital Information Form	340	3	5/60	85
Data Files Submission	340	1	1	340
Total	N/A	N/A	N/A	459

EXHIBIT 2—ESTIMATED ANNUALIZED COST BURDEN

Form name	Number of respondents/ POCs	Total burden hours	Average hourly wage rate *	Total cost burden
Eligibility/Registration Form	340	17	$57.89	$984
Data Use Agreement	340	17	57.89	984
Hospital Information Form	340	85	57.89	4,921
Data Files Submission	340	340	57.89	19,683
Total	N/A	N/A	N/A	26,572

* Mean hourly wage of $57.89 for Medical and Health Services Managers (SOC code 11–9111) was obtained from the May 2017 National Industry-Specific Occupational Employment and Wage Estimates NAICS 622000—Hospitals, located at *http://www.bls.gov/oes/current/naics3_622000.htm.*

Request for Comments

In accordance with the Paperwork Reduction Act, comments on AHRQ's information collection are requested with regard to any of the following: (a) Whether the proposed collection of information is necessary for the proper performance of AHRQ's health care research and health care information dissemination functions, including whether the information will have practical utility; (b) the accuracy of AHRQ's estimate of burden (including hours and costs) of the proposed collection(s) of information; (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 upon the respondents, including the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and included in the Agency's subsequent request for OMB approval of the proposed information collection. All comments will become a matter of public record.

Gopal Khanna,

Director.

[FR Doc. 2019–05140 Filed 3–18–19; 8:45 am]

BILLING CODE 4160–90–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Patient Safety Organizations: Voluntary Relinquishment From Quality Alliance Patient Safety Organization

AGENCY: Agency for Healthcare Research and Quality (AHRQ), Department of Health and Human Services (HHS).

ACTION: Notice of delisting.

SUMMARY: The Patient Safety and Quality Improvement Final Rule (Patient Safety Rule) authorizes AHRQ, on behalf of the Secretary of HHS, to list as a patient safety organization (PSO) an entity that attests that it meets the statutory and regulatory requirements for listing. A PSO can be ''delisted'' by the Secretary if it is found to no longer meet the requirements of the Patient Safety and Quality Improvement Act of 2005 (Patient Safety Act) and Patient Safety Rule, when a PSO chooses to voluntarily relinquish its status as a PSO for any reason, or when a PSO's listing expires. AHRQ has accepted a notification of voluntary relinquishment from the Quality Alliance Patient Safety Organization, PSO number P0163, of its status as a PSO, and has delisted the PSO accordingly.

DATES: The delisting was effective at 12:00 Midnight ET (2400) on December 31, 2018.

ADDRESSES: The directories for both listed and delisted PSOs are ongoing and reviewed weekly by AHRQ. Both directories can be accessed electronically at the following HHS website: *http://www.pso.ahrq.gov/listed.*

FOR FURTHER INFORMATION CONTACT: Cathryn Bach, Center for Quality Improvement and Patient Safety, AHRQ, 5600 Fishers Lane, MS 06N100B, Rockville, MD 20857; Telephone (toll free): (866) 403–3697; Telephone (local): (301) 427–1111; TTY (toll free): (866) 438–7231; TTY (local): (301) 427–1130; Email: *pso@ahrq.hhs.gov.*

SUPPLEMENTARY INFORMATION:

Background

The Patient Safety Act, 42 U.S.C. 299b–21 to 299b–26, and the related Patient Safety Rule, 42 CFR part 3, published in the **Federal Register** on November 21, 2008, 73 FR 70732–70814, establish a framework by which individuals and entities that meet the definition of provider in the Patient Safety Rule may voluntarily report information to PSOs listed by AHRQ, on a privileged and confidential basis, for the aggregation and analysis of patient safety events.

The Patient Safety Act authorizes the listing of PSOs, which are entities or component organizations whose mission and primary activity are to conduct activities to improve patient safety and the quality of health care delivery.

HHS issued the Patient Safety Rule to implement the Patient Safety Act. AHRQ administers the provisions of the Patient Safety Act and Patient Safety Rule relating to the listing and operation of PSOs. The Patient Safety Rule authorizes AHRQ to list as a PSO an entity that attests that it meets the statutory and regulatory requirements for listing. A PSO can be ''delisted'' if it is found to no longer meet the requirements of the Patient Safety Act and Patient Safety Rule, when a PSO chooses to voluntarily relinquish its status as a PSO for any reason, or when a PSO's listing expires. Section 3.108(d) of the Patient Safety Rule requires AHRQ to provide public notice when it removes an organization from the list of federally approved PSOs.

AHRQ has accepted a notification from Quality Alliance Patient Safety Organization, a component entity of Memorial Health System, Midwest Healthcare Quality Alliance, Southern Illinois University HealthCare and Springfield Clinic, LLP, to voluntarily relinquish its status as a PSO. Accordingly, Quality Alliance Patient Safety Organization, P0163, was delisted effective at 12:00 Midnight ET (2400) on December 31, 2018.

Quality Alliance Patient Safety Organization has patient safety work product (PSWP) in its possession. The PSO will meet the requirements of section 3.108(c)(2)(i) of the Patient Safety Rule regarding notification to providers that have reported to the PSO and of section 3.108(c)(2)(ii) regarding disposition of PSWP consistent with section 3.108(b)(3). According to section 3.108(b)(3) of the Patient Safety Rule, the PSO has 90 days from the effective

date of delisting and revocation to complete the disposition of PSWP that is currently in the PSO's possession.

More information on PSOs can be obtained through AHRQ's PSO website at *http://www.pso.ahrq.gov.*

Gopal Khanna,

Director.

[FR Doc. 2019–05150 Filed 3–18–19; 8:45 am]

BILLING CODE 4160–90–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Supplemental Evidence and Data Request on Opioid Treatments for Chronic Pain

AGENCY: Agency for Healthcare Research and Quality (AHRQ), HHS.

ACTION: Request for supplemental evidence and data submissions.

SUMMARY: The Agency for Healthcare Research and Quality (AHRQ) is seeking scientific information submissions from the public. Scientific information is being solicited to inform our review on *Opioid Treatments for Chronic Pain,* which is currently being conducted by the AHRQ's Evidence-based Practice Centers (EPC) Program. Access to published and unpublished pertinent scientific information will improve the quality of this review.

DATES: *Submission Deadline* on or before April 18, 2019.

ADDRESSES:

Email submissions: epc@ahrq.hhs.gov.

Print submissions:

Mailing Address: Center for Evidence and Practice Improvement, Agency for Healthcare Research and Quality, ATTN: EPC SEADs Coordinator, 5600 Fishers Lane, Mail Stop 06E53A, Rockville, MD 20857.

Shipping Address (FedEx, UPS, etc.): Center for Evidence and Practice Improvement, Agency for Healthcare Research and Quality, ATTN: EPC SEADs Coordinator, 5600 Fishers Lane, Mail Stop 06E77D, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Jenae Benns, Telephone: 301–427–1496 or Email: *epc@ahrq.hhs.gov.*

SUPPLEMENTARY INFORMATION: The Agency for Healthcare Research and Quality has commissioned the Evidence-based Practice Centers (EPC) Program to complete a review of the evidence for *Opioid Treatments for Chronic Pain.* AHRQ is conducting this systematic review pursuant to Section 902(a) of the Public Health Service Act, 42 U.S.C. 299a(a).

The EPC Program is dedicated to identifying as many studies as possible that are relevant to the questions for each of its reviews. In order to do so, we are supplementing the usual manual and electronic database searches of the literature by requesting information from the public (*e.g.,* details of studies conducted). We are looking for studies that report on *Opioid Treatments for Chronic Pain,* including those that describe adverse events. The entire research protocol is available online at: *https://effectivehealthcare.ahrq.gov/topics/opioids-chronic-pain/protocol.*

This is to notify the public that the EPC Program would find the following information on Opioid Treatments for Chronic Pain helpful:

- A list of completed studies that your organization has sponsored for this indication. In the list, please *indicate whether results are available on ClinicalTrials.gov along with the ClinicalTrials.gov trial number.*
- *For completed studies that do not have results on ClinicalTrials.gov,* please provide a summary, including the following elements: Study number, study period, design, methodology, indication and diagnosis, proper use instructions, inclusion and exclusion criteria, primary and secondary outcomes, baseline characteristics, number of patients screened/eligible/enrolled/lost to follow-up/withdrawn/analyzed, effectiveness/efficacy, and safety results.
- *A list of ongoing studies that your organization has sponsored for this indication.* In the list, please provide the ClinicalTrials.gov trial number or, if the trial is not registered, the protocol for the study including a study number, the study period, design, methodology, indication and diagnosis, proper use instructions, inclusion and exclusion criteria, and primary and secondary outcomes.
- Description of whether the above studies constitute ALL Phase II and above clinical trials sponsored by your organization for this indication and an index outlining the relevant information in each submitted file.

Your contribution will be very beneficial to the EPC Program. Materials submitted must be publicly available or able to be made public. Materials that are considered confidential; marketing materials; study types not included in the review; or information on indications not included in the review cannot be used by the EPC Program. This is a voluntary request for information, and all costs for complying with this request must be borne by the submitter.

The draft of this review will be posted on AHRQ's EPC Program website and available for public comment for a period of 4 weeks. If you would like to be notified when the draft is posted, please sign up for the email list at: *https://www.effectivehealthcare.ahrq.gov/email-updates.*

The systematic review will answer the following questions. This information is provided as background. AHRQ is not requesting that the public provide answers to these questions.

The Key Questions:

Key Question 1. Effectiveness and Comparative Effectiveness

a. In patients with chronic pain, what is the effectiveness of opioid therapy versus placebo or no opioid therapy for outcomes related to pain, function, and quality of life, after short-term follow-up (up to 6 months), intermediate-term follow-up (6 to 12 months), and long-term follow-up (at least 1 year)?

b. How does effectiveness vary depending on:

(1) the specific type or cause of pain (*e.g.,* neuropathic, musculoskeletal [including low back pain], visceral pain, fibromyalgia, sickle cell disease, inflammatory pain, headache disorders, and degree of nociplasticity);

(2) patient demographics (*e.g.,* age, race, ethnicity, gender, socioeconomic status);

(3) patient comorbidities (including past or current alcohol or substance use disorders, mental health disorders, medical comorbidities and high risk for opioid use disorder);

(4) the mechanism of action of opioids used (*e.g.,* pure opioid agonists, partial opioid agonists such as buprenorphine or drugs with mixed opioid and nonopioid mechanisms of action such as tramadol or tapentadol)?

c. In patients with chronic pain, what is the comparative effectiveness of opioids versus nonopioid therapies (pharmacologic or nonpharmacologic, including marijuana) on outcomes related to pain, function, and quality of life, after short-term follow-up (up to 6 months), intermediate-term follow-up (6 to 12 months), and long-term follow-up (at least 1 year)?

d. In patients with chronic pain, what is the comparative effectiveness of opioids plus nonopioid interventions (pharmacologic or nonpharmacologic, including marijuana) versus opioids or nonopioid interventions alone on outcomes related to pain, function, quality of life, and doses of opioids

used, after short-term follow-up (up to 6 months), intermediate-term follow-up (6 to 12 months), and long-term follow-up (at least 1 year)?

Key Question 2. Harms and Adverse Events

a. In patients with chronic pain, what are the risks of opioids versus placebo or no opioid on:

(1) substance misuse, substance use disorder, and related outcomes;

(2) overdose (intentional and unintentional);

(3) other harms, including gastrointestinal-related harms, falls, fractures, motor vehicle accidents, endocrinological harms, infections, cardiovascular events, cognitive harms, and psychological harms (*e.g.,* depression)?

b. How do harms vary depending on:

(1) the specific type or cause of pain (*e.g.,* neuropathic, musculoskeletal [including back pain], visceral pain, fibromyalgia, sickle cell disease, inflammatory pain, headache disorders, and degree of nociplasticity);

(2) patient demographics;

(3) patient comorbidities (including past or current substance use disorder or at high risk for opioid use disorder);

(4) the dose of opioids used and duration of therapy;

(5) the mechanism of action of opioids used (*e.g.,* are there differences between pure opioid agonists and partial opioid agonists such as buprenorphine or drugs with opioid and nonopioid mechanisms of action such as tramadol and tapentadol);

(6) use of sedative hypnotics;

(7) use of gabapentinoids;

(8) use of marijuana?

Key Question 3. Dosing Strategies

a. In patients with chronic pain, what is the comparative effectiveness of different methods for initiating and titrating opioids for outcomes related to pain, function, and quality of life; risk of misuse, opioid use disorder, and overdose; and doses of opioids used?

b. In patients with chronic pain, what is the comparative effectiveness of short-acting versus long-acting opioids on outcomes related to pain, function, and quality of life; risk of misuse, opioid use disorder, and overdose; and doses of opioids used?

c. In patients with chronic pain, what is the comparative effectiveness of different long-acting opioids on outcomes related to pain, function, and quality of life; and risk of misuse, opioid use disorder, and overdose?

d. In patients with chronic pain, what is the comparative effectiveness of short- plus long-acting opioids versus long-acting opioids alone on outcomes related to pain, function, and quality of life; risk of misuse, opioid use disorder, and overdose; and doses of opioids used?

e. In patients with chronic pain, what is the comparative effectiveness of scheduled, continuous versus as-needed dosing of opioids on outcomes related to pain, function, and quality of life; risk of misuse, opioid use disorder, and overdose; and doses of opioids used?

f. In patients with chronic pain, what is the comparative effectiveness of opioid dose escalation versus dose maintenance or use of dose thresholds on outcomes related to pain, function, and quality of life?

g. In patients with chronic pain, what is the comparative effectiveness of opioid rotation versus maintenance of current opioid therapy on outcomes related to pain, function, and quality of life; and doses of opioids used?

h. In patients with chronic pain, what is the comparative effectiveness of different strategies for treating acute exacerbations of chronic pain on outcomes related to pain, function, and quality of life?

i. In patients with chronic pain, what are the effects of decreasing opioid doses or of tapering off opioids versus continuation of opioids on outcomes related to pain, function, quality of life, and withdrawal?

j. In patients with chronic pain, what is the comparative effectiveness of different tapering protocols and strategies on measures related to pain, function, quality of life, withdrawal symptoms, and likelihood of opioid cessation?

k. In patients with chronic pain, what is the comparative effectiveness of different opioid dosages and durations of therapy for outcomes related to pain, function, and quality of life; risk of misuse, opioid use disorder, and overdose?

Key Question 4. Risk Assessment and Risk Mitigation Strategies

a. In patients with chronic pain being considered for opioid therapy, what is the accuracy of instruments and tests (including metabolic and/or genetic testing) for predicting risk of misuse, opioid use disorder, and overdose?

b. In patients with chronic pain, what is the effectiveness of use of risk prediction instruments and tests (including metabolic and/or genetic testing) on outcomes related to misuse, opioid use disorder, and overdose?

c. In patients with chronic pain who are prescribed opioid therapy, what is the effectiveness of risk mitigation strategies, including (1) opioid management plans, (2) patient education, (3) urine drug screening, (4) use of prescription drug monitoring program data, (5) use of monitoring instruments, (6) more frequent monitoring intervals, (7) pill counts, (8) use of abuse-deterrent formulations, (9) consultation with mental health providers when mental health conditions are present, (10) avoidance of co-prescribing of sedative hypnotics, and (11) co-prescribing of naloxone on outcomes related to misuse, opioid use disorder, and overdose?

d. In patients with chronic pain, what is the comparative effectiveness of treatment strategies for managing patients with opioid use disorder related to prescription opioids on outcomes related to misuse, opioid use disorder, overdose, pain, function, and quality of life?

PICOTS (POPULATIONS, INTERVENTIONS, COMPARATORS, OUTCOMES, TIMING, SETTINGS)

Key question	Population	Intervention	Comparator	Outcome
1a, b	Adults (age ≥18 years) with various types of chronic pain including pregnant/breast-feeding women and patients treated with opioids for opioid use disorder. Key Question 1b: Subgroups: (1) The specific type or cause of pain (*e.g.,* neuropathic, musculoskeletal [including low back pain], fibromyalgia, sickle cell disease, inflammatory pain, and headache disorders); (2) patient demographics (*e.g.,* age, race, ethnicity, gender); (3) patient comorbidities (including past or current alcohol or substance use disorders, mental health disorders, medical comorbidities and high risk for opioid use disorder).	Long- or short-acting opioids (including partial agonists and dual mechanism agents). Exclude: Intravenous or intramuscular administration of opioids.	Placebo or no opioid therapy	Pain, function, and quality of life).
1c	Adults (age ≥18 years) with various types of chronic pain.	Long- or short-acting opioids (including partial agonists and dual action medications). Exclude: Intravenous or intramuscular administration of opioids.	Nonopioid therapies (pharmacologic [antiepileptic drugs, benzodiazepines, nonsteroidal antiinflammatory drugs, skeletal muscle relaxants, serotonin norepinephrine reuptake inhibitors, topical lidocaine, topical capsaicin, topical diclofenac, tricyclica antidepressants, acetaminophen, memantine, and marijuana/cannabis] or nonpharmacologic [noninvasive]).	Pain, function, and quality of life; doses of opioids used.
1d	Adults (age ≥18 years) with various types of chronic pain.	Opioids plus nonopioid interventions (pharmacologic or nonpharmacologic). Exclude: Intravenous or intramuscular administration of opioids.	Opioids or nonopioid interventions alone, including marijuana.	Pain, function, and quality of life, doses of opioids used.
2a	Adults (age ≥18 years) with various types of chronic pain. Key Question 2b: Subgroups (1) the specific type or cause of pain (*e.g.,* neuropathic, musculoskeletal [including back pain], fibromyalgia, sickle cell disease, inflammatory pain, headache disorders); (2) patient demographics; (3) patient comorbidities (including past or current substance use disorder or at high risk for opioid use disorder); (4) the dose of opioids used; (5) the mechanisms of actions of the opioids; and (6) use of sedative hypnotics.	Long- or short-acting opioids (including tapentadol, buprenorphine, and tramadol) opioids. Exclude: Intravenous or intramuscular administration of opioids.	Placebo or no opioid	Substance misuse, substance use disorder and related outcomes, overdose, and other harms.
3a	Adults (age ≥18 years) with various types of chronic pain.	Long- or short-acting opioids (including tapentadol, buprenorphine, and tramadol).	Other opioids with different dose initiation and titration strategies.	Pain, function, and quality of life; doses of opioids used.
3b	Adults (age ≥18 years) with various types of chronic pain.	Short-acting opioid	Long-acting opioid	Pain, function, and quality of life; risk of misuse, opioid use disorder, overdose and other harms; doses of opioids used.
3c	Adults (age ≥18 years) with various types of chronic pain.	Long-acting opioid	Other long-acting opioid	Pain, function, and quality of life; risk of misuse, opioid use disorder, and overdose and other harms; doses of opioids used.
3d	Adults (age ≥18 years) with various types of chronic pain.	Short and long acting opioid	Long-acting opioid	Pain, function, and quality of life; risk of misuse, opioid use disorder, overdose and other harms; doses of opioids used.
3e	Adults (age ≥18 years) with various types of chronic pain.	Scheduled, continuous dosing	As-needed dosing	Pain, function, and quality of life; risk of misuse, opioid use disorder, overdose, and other harms; doses of opioids used.
3f	Adults (age ≥18 years) with various types of chronic pain.	Opioid dose escalation	Dose maintenance or use of dose thresholds.	Pain, function, and quality of life.
3g	Adults (age ≥18 years) with various types of chronic pain.	Opioid rotation	Maintenance of current opioid therapy.	Pain, function, and quality of life; doses of opioids used.
3h	Adults (age ≥18 years) with various types of chronic pain and an acute exacerbation.	Treatments for acute exacerbations of chronic pain.	Other treatments for acute exacerbations of chronic pain.	Pain, function, and quality of life.

PICOTS (POPULATIONS, INTERVENTIONS, COMPARATORS, OUTCOMES, TIMING, SETTINGS)—Continued

Key question	Population	Intervention	Comparator	Outcome
3i	Adults (age ≥18 years) with various types of chronic pain.	Decreasing opioid doses or of tapering off opioids.	Continuation of opioids	Pain, function, and quality of life; withdrawal and other harms (including overdose, use of illicit opioids, suicidality, and anger/violence).
3j	Adults (age ≥18 years) with various types of chronic pain.	Tapering protocols and strategies	Other tapering protocols or strategies.	Pain, function, quality of life, likelihood of opioid cessation, withdrawal symptoms and other harms (including overdose, use of illicit opioids, suicidality, and anger/violence).
3k	Adults (age ≥18 years) with various types of chronic pain.	Dosage of opioid	Other dose of same opioid	Pain, function, and quality of life; risk of misuse, opioid use disorder, overdose and other harms.
4a	Adults (age ≥18 years) with various types of chronic pain.	Instruments, genetic/metabolic tests for predicting risk of misuse, opioid use disorder, and overdose.	Reference standard for misuse, opioid use disorder, or overdose; or other benchmarks.	Measures of diagnostic accuracy.
4b	Adults (age ≥18 years) with various types of chronic pain.	Use of risk prediction instruments, genetic/metabolic tests.	Usual care or other control	Misuse, opioid use disorder, overdose and other harms.
4c	Adults (age ≥18 years) with various types of chronic pain.	Risk mitigation strategies, including (1) opioid management plans, (2) patient education, (3) urine drug screening, (4) use of prescription drug monitoring program data, (5) use of monitoring instruments, (6) more frequent monitoring intervals, (7) pill counts, (8) use of abuse-deterrent formulations, (9) consultation with mental health providers when mental health conditions are present, (10) avoidance of benzodiazepine co-prescribing and (11) co-prescribing of naloxone.	Usual care	Pain, function, quality of life, misuse, opioid use disorder, overdose and other harms (including use of illicit opioids, suicidality, and anger/violence).
4d	Adults (age ≥18 years) with various types of chronic pain and opioid use disorder.	Treatment strategies	Other treatment strategies	Pain, function, quality of life, misuse, opioid use disorder, overdose, other harms, pain, function, and quality of life.

Additional Inclusion Criteria

Timing

- For all questions, studies with at least 1 month of followup will be included. Results will be stratified according to short-term (1 to 6 months), intermediate term (6 to 12 months), and long-term (≥1 year) followup.

Setting

- *Include:* Outpatient settings (*e.g.,* primary care, pain clinics, other specialty clinics, emergency rooms, urgent care clinics).
- *Exclude:* Addiction treatment settings, inpatient settings.

Gopal Khanna,

Director.

[FR Doc. 2019–05145 Filed 3–18–19; 8:45 am]

BILLING CODE 4160–90–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Agency for Healthcare Research and Quality, HHS.

ACTION: Notice.

SUMMARY: This notice announces the intention of the Agency for Healthcare Research and Quality (AHRQ) to request that the Office of Management and Budget (OMB) approve the proposed information collection project: ''*Child Hospital Consumer Assessment of Healthcare Providers and Systems (Child HCAHPS) Survey Database.*''

This proposed information collection was previously published in the **Federal Register** on November 7th, 2018, and allowed 60 days for public comments. AHRQ received and responded to one substantive comment from a member of the public. The purpose of this notice is to allow an additional 30 days for public comment.

DATES: Comments on this notice must be received by April 18, 2019.

ADDRESSES: Written comments should be submitted to: AHRQ's OMB Desk Officer by fax at (202) 395–6974 (attention: AHRQ's desk officer) or by email at *OIRA_submission@omb.eop.gov* (attention: AHRQ's desk officer).

FOR FURTHER INFORMATION CONTACT: Doris Lefkowitz, AHRQ Reports Clearance Officer, (301) 427–1477, or by email at *doris.lefkowitz@AHRQ.hhs.gov.*

SUPPLEMENTARY INFORMATION:

Proposed Project

Child Hospital Consumer Assessment of Healthcare Providers and Systems (Child HCAHPS) Survey Database

In accordance with the Paperwork Reduction Act, 44 U.S.C. 3501–3521, AHRQ invites the public to comment on this proposed information collection. The Child Hospital CAHPS Survey (Child HCAHPS) assesses the experiences of pediatric patients (less

than 18 years old) and their parents or guardians with inpatient care. It complements the Adult Hospital CAHPS Survey (Adult HCAHPS), which asks adult inpatients about their experiences. In contrast to the adult version of HCAHPS, there is no publicly available comprehensive database for Child HCAHPS that allows survey users to analyze and compare their survey results in order to assess their performance and identify opportunities for improvement. The proposed Child HCAHPS Database will fill this critical information gap by creating a voluntary database available to all Child HCAHPS users to support both quality improvement and research to enhance the patient-centeredness of care delivered to pediatric hospital patients.

AHRQ supported the development of the Child HCAHPS survey by the Center of Excellence for Pediatric Quality Measurement at Boston Children's Hospital. The Child HCAHPS survey is currently used by approximately 300 hospitals. Hospitals using Child HCAHPS, including the 25 hospital members of the Pediatric Patient Experience Collaborative, have expressed strong interest in working with AHRQ to develop a database that can provide a centralized repository of data.

Rationale for the information collection. Like the survey instrument itself and related toolkit materials to support survey implementation, aggregated Child HCAHPS Database results will be made publicly available on AHRQ's CAHPS website. Technical assistance will be provided by AHRQ through its contractor at no charge to hospitals to facilitate the access and use of these materials for quality improvement and research. Technical assistance will also be provided to support Child HCAHPS data submission.

The Child HCAHPS Database will support AHRQ's goals of promoting improvements in the quality and patient-centeredness of health care in pediatric hospital settings. This research has the following goals:

1. Improve care provided by individual hospitals and hospital systems.

2. Offer several products and services, including providing survey results presented through an Online Reporting System, summary chartbooks, custom analyses, private reports and data for research purposes.

3. Provides information to help identify strengths and areas with potential for improvement in patient care.

This study is being conducted by AHRQ through its contractor, Westat, pursuant to AHRQ's statutory authority to conduct and support research on health care and on systems for the delivery of such care, including activities with respect to: the quality, effectiveness, efficiency, appropriateness and value of health care services; quality measurement and improvement; and health surveys and database development. 42 U.S.C 299a(a)(1), (2), and (8).

Method of Collection

To achieve the goals of this project, the following activities and data collections that constitute information collection under the Paperwork Reduction Act (PRA) will be implemented:

Submission Notifications and Instructions. Clear instructions and notifications are of paramount importance for successful submission of valid data, seamless report dissemination, and streamlined communication with survey vendors, hospitals, or other submitters. Procedures for data submission through the data submission platform will include the following:

- Registration with the submission website to obtain an account with a secure username and password: The point-of-contact (POC), often the hospital, completes a number of data submission steps and forms, beginning with the completion of the online registration form. The purpose of this form is to collect basic contact information about the organization and initiate the registration process;
- Submission of signed Data Use Agreements (DUAs) and survey questionnaires. The purpose of the data use agreement, completed by the participating hospital, is to state how data submitted by or on behalf of hospitals will be used and provides confidentiality assurances;
- Submission of hospital information form. The purpose of this form completed by the participating organization, is to collect background characteristics of the hospital; and
- Follow-up with submitters in the event of a rejected file, to assist in making corrections and resubmitting the file.

With the approval and addition of the Child HCAHPS Database, data submitted will be used to produce three types of reporting products:

- *Hospital Feedback Reports.* Hospitals that submit data will have access to a customized report that presents findings for their individual submission along with results from the database overall. These ''private'' hospital feedback reports will display sortable results for each of the Child HCAHPS core composite measures and for each individual survey item that forms the composite measure.
- *Child HCAHPS Chartbook.* A summary-level Chartbook will be compiled to display top box and other proportional scores for the Child HCAHPS items and composite measures broken out by selected hospital characteristics (*e.g.,* region, hospital size, ownership and affiliation, etc.).
- *Online Reporting System.* Aggregate results also will be made publicly available through an interactive, web-based system that allows users to view survey item and composite results (or build and download a custom report) in a variety of formats.

Estimated Annual Respondent Burden

Exhibit 1 shows the estimated burden hours for the respondents to participate in the database. The 302 POCs in Exhibit 1 are a combination of an estimated 300 hospitals that currently administer the Child HCAHPS survey and the two survey vendors assisting them.

Each hospital will register online for submission. The online Registration form will require about 5 minutes to complete. Each submitter will also complete a hospital information form of information about each hospital such as the name of the hospital, hospital size, state, etc. The online hospital information form takes on average 5 minutes to complete. The data use agreement will be completed by each of the 300 participating hospitals. Survey vendors do not sign or submit DUAs. The DUA requires about 3 minutes to sign and return by fax or mail. Each submitter, which in most cases will be the survey vendor performing the data collection, will provide a copy of their questionnaire and the survey data file in the required file format. Survey data files must conform to the data file layout specifications provide by the Child HCAHPS Database. Since the unit of analysis is at the hospital level, submitters will upload one data file per hospital. Once a data file is uploaded, the file will be automatically checked to ensure it conforms to the specifications and a data file status report will be produced and made available to the submitter. Submitters will review each report and will be expected to correct any errors in their data file and resubmit if necessary. It will take about one hour to submit the data for each hospital. The total burden is estimated to be 365 hours annually.

EXHIBIT 1—ESTIMATED ANNUALIZED BURDEN HOURS

Form name	Number of respondents/ POCs	Number of responses per POC	Hours per response	Total burden hours
Registration Form	300	1	5/60	25
Hospital Information Form	300	1	5/60	25
Data Use Agreement	300	1	3/60	15
Data Files Submission	2	150	1	300
Total	902	NA	NA	365

Exhibit 2 shows the estimated annualized cost burden based on the respondents' time to complete one submission process. The cost burden is estimated to be $16,722 annually.

EXHIBIT 2—ESTIMATED ANNUALIZED COST BURDEN

Form name	Number of respondents	Total burden hours	Average hourly wage rate *	Total cost burden
Registration Form	300	25	53.69[a]	$1,342
Hospital Information Form	300	25	[a]53.69	1,342
Data Use Agreement	300	15	[b]94.25	1,414
Data Files Submission	2	300	[c] 42.08	12,624
Total	902	365	NA	16,722

* National Compensation Survey: Occupational wages in the United States May 2017, "U.S. Department of Labor, Bureau of Labor Statistics."
(a) Based on the mean hourly wage for Medical and Health Services Managers (11–9111).
(b) Based on the mean hourly wage for Chief Executives (11–1011).
(c) Based on the mean hourly wages for Computer Programmer (15–1131).

Request for Comments

In accordance with the Paperwork Reduction Act, comments on AHRQ's information collection are requested with regard to any of the following: (a) Whether the proposed collection of information is necessary for the proper performance of AHRQ's health care research and health care information dissemination functions, including whether the information will have practical utility; (b) the accuracy of AHRQ's estimate of burden (including hours and costs) of the proposed collection(s) of information; (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 upon the respondents, including the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and included in the Agency's subsequent request for OMB approval of the proposed information collection. All comments will become a matter of public record.

Gopal Khanna,

Director.

[FR Doc. 2019–05144 Filed 3–18–19; 8:45 am]

BILLING CODE 4160–90–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Agency for Healthcare Research and Quality, HHS.

ACTION: Notice.

SUMMARY: This notice announces the intention of the Agency for Healthcare Research and Quality (AHRQ) to request that the Office of Management and Budget (OMB) approve the proposed information collection project "Consumer Assessment of Healthcare Providers and Systems (CAHPS) Home and Community Based Services (HCBS) Survey Database."

DATES: Comments on this notice must be received by May 20, 2019.

ADDRESSES: Written comments should be submitted to: Doris Lefkowitz, Reports Clearance Officer, AHRQ, by email at *doris.lefkowitz@AHRQ.hhs.gov.*

Copies of the proposed collection plans, data collection instruments, and specific details on the estimated burden can be obtained from the AHRQ Reports Clearance Officer.

FOR FURTHER INFORMATION CONTACT: Doris Lefkowitz, AHRQ Reports Clearance Officer, (301) 427–1477, or by emails at *doris.lefkowitz@AHRQ.hhs.gov.*

SUPPLEMENTARY INFORMATION:

Proposed Project

Consumer Assessment of Healthcare Providers and Systems (CAHPS®) Home and Community Based Services (HCBS) Survey Database

In accordance with the Paperwork Reduction Act, 44 U.S.C. 3501–3521, AHRQ invites the public to comment on this proposed information collection. The CAHPS Home and Community-Based Services Survey is the first cross-disability survey of home and community-based service beneficiaries' experience receiving long-term services and supports. It is designed to facilitate comparisons across state Medicaid HCBS programs throughout the country that target adults with disabilities, *e.g.,* including frail elderly, individuals with physical disabilities, persons with developmental or intellectual disabilities, those with acquired brain injury and persons with severe mental illness.

The HCBS CAHPS Survey was developed by the Centers for Medicare & Medicaid Services (CMS) for

voluntary use by state Medicaid programs, including both fee-for-service HCBS programs as well as managed long-term services and supports (MLTSS) programs. States with adequate sample sizes may consider using survey metrics in value-based purchasing initiatives.

The HCBS–CAHPS Database will serve as a primary source of data available to states, agency programs and researchers to help answer important questions related to beneficiary experiences. AHRQ, through its contractor, will collect and make available de-identified survey data, enabling HCBS programs to identify areas where quality can be improved.

Rationale for the information collection. Aggregated HCBS–CAHPS Database results will be made publicly available on AHRQ's CAHPS website. Technical assistance will be provided by AHRQ, through its contractor, at no charge to programs to facilitate the access and use of these materials for quality improvement and research. Technical assistance will also be provided to support HCBS–CAHPS data submission.

The HCBS–CAHPS Database will support AHRQ's goals of promoting improvements in the quality and patient-centeredness of health care in home or community-based care settings. This research has the following goals:

1. Improve care provided by individual providers and state programs.

2. Offer several products and services, including providing survey results presented through an Online Reporting System, summary chartbooks, custom analyses, private reports and data for research purposes.

3. Provide information to help identify strengths and areas with potential for improvement in patient care.

This study is being conducted by AHRQ through its contractor, Westat, pursuant to AHRQ's statutory authority to conduct and support research on health care and on systems for the delivery of such care, including activities with respect to the quality, effectiveness, efficiency, appropriateness and value of health care services; quality measurement and improvement; and health surveys and database development 42 U.S.C. 299a(a)(1) and (2), and (8).

Method of Collection

The development and operation of the HCBS–CAHPS Database will include the following major components undertaken by AHRQ through its contractor. To achieve the goals of this project, the following activities and data collections that constitute information collection under the Paperwork Reduction Act (PRA) will be implemented:

- Registration with the site to obtain an account with a secure username and password: The point-of-contact (POC) completes an online registration form, providing contact and organizational information required to initiate the registration process.
- Submission of signed Data Use Agreements (DUAs) and survey questionnaires: The data use agreement completed by the participating organization provides confidentiality assurances and states how the data submitted will be used.
- Submission of program information form: The POC completes an online information form to describe organizational characteristics of the program.
- Submission of de-identified survey data files: POCs upload data files in the format specified in the data file specifications to ensure data submitted is standardized and consistently named and coded.
- Follow-up with submitters in the event of a rejected file, to assist in making corrections and resubmitting the file.

Estimated Annual Respondent Burden

Exhibit 1 shows the estimated burden hours for the respondents to participate in the database. The 51 POCs in Exhibit 1 represent the 51 states or agencies that will administer the Adult HCBS survey. An estimated 13 survey vendors will assist them.

Each state or agency will register online for submission. The online Registration form will require about 5 minutes to complete. Each submitter will also complete a program information form of information about each program such as the name of the program, program size, state, etc. The online program information form takes on average 5 minutes to complete. The data use agreement will be completed by each of the 51 participating States. Survey vendors do not sign or submit DUAs. The DUA requires about 3 minutes to sign and return by fax or mail. Each submitter, which in most cases will be the survey vendor performing the data collection, will provide a copy of their questionnaire and the survey data file in the required file format. Survey data files must conform to the data file layout specifications provided by the HCBS–CAHPS Database. Since the unit of analysis is at the program level, submitters will upload one data file per program. Once a data file is uploaded the file will be automatically checked to ensure it conforms to the specifications and a data file status report will be produced and made available to the submitter. Submitters will review each report and will be expected to correct any errors in their data file and resubmit if necessary. It will take about one hour to submit the data for each program. The total burden is estimated to be 63 hours annually.

EXHIBIT 1—ESTIMATED ANNUALIZED BURDEN HOURS

Form name	Number of respondents/ POCs	Number of responses per POC	Hours per response	Total burden hours
Registration Form	51	1	5/60	4.25
Program Information Form	51	1	5/60	4.25
Data Use Agreement	51	1	3/60	2.5
Data Files Submission	13	4	1	52
Total	166	NA	NA	63

Exhibit 2 shows the estimated annualized cost burden based on the respondents' time to complete one submission process. The cost burden is estimated to be $2,880 annually.

EXHIBIT 2—ESTIMATED ANNUALIZED COST BURDEN

Form name	Number of respondents	Total burden hours	Average hourly wage rate *	Total cost burden
Registration Form	51	4.25	[a] 53.69	$228
Program Information Form	51	4.25	[a] 53.69	228
Data Use Agreement	51	2.5	[b] 94.25	236
Data Files Submission	13	52	[c] 42.08	2,188
Total	** 166	63	NA	2,880

* National Compensation Survey: Occupational wages in the United States May 2017, "U.S. Department of Labor, Bureau of Labor Statistics."
[a] Based on the mean hourly wage for Medical and Health Services Managers (11–9111).
[b] Based on the mean hourly wage for Chief Executives (11–1011).
[c] Based on the mean hourly wages for Computer Programmer (15–1131).
** The 51 POCs listed for the registration form, program information form and the data use agreement are the estimated POCs from the estimated participating programs.

Request for Comments

In accordance with the Paperwork Reduction Act, comments on AHRQ's information collection are requested with regard to any of the following: (a) Whether the proposed collection of information is necessary for the proper performance of AHRQ's health care research and health care information dissemination functions, including whether the information will have practical utility; (b) the accuracy of AHRQ's estimate of burden (including hours and costs) of the proposed collection(s) of information; (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 upon the respondents, including the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and included in the Agency's subsequent request for OMB approval of the proposed information collection. All comments will become a matter of public record.

Gopal Khanna,

Director.

[FR Doc. 2019–05141 Filed 3–18–19; 8:45 am]

BILLING CODE 4160–90–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Supplemental Evidence and Data Request on Noninvasive Nonpharmacologic Treatment for Chronic Pain

AGENCY: Agency for Healthcare Research and Quality (AHRQ), HHS.

ACTION: Request for supplemental evidence and data submissions.

SUMMARY: The Agency for Healthcare Research and Quality (AHRQ) is seeking scientific information submissions from the public. Scientific information is being solicited to inform our review on *Noninvasive Nonpharmacologic Treatment for Chronic Pain,* which is currently being conducted by the AHRQ's Evidence-based Practice Centers (EPC) Program. Access to published and unpublished pertinent scientific information will improve the quality of this review.

DATES: *Submission Deadline* on or before April 18, 2019.

ADDRESSES:

Email submissions: epc@ahrq.hhs.gov.

Print submissions:

Mailing Address: Center for Evidence and Practice Improvement, Agency for Healthcare Research and Quality, ATTN: EPC SEADs Coordinator, 5600 Fishers Lane, Mail Stop 06E53A, Rockville, MD 20857.

Shipping Address (FedEx, UPS, etc.): Center for Evidence and Practice Improvement, Agency for Healthcare Research and Quality, ATTN: EPC SEADs Coordinator, 5600 Fishers Lane, Mail Stop 06E77D, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Jenae Benns, Telephone: 301–427–1496 or Email: *epc@ahrq.hhs.gov.*

SUPPLEMENTARY INFORMATION: The Agency for Healthcare Research and Quality has commissioned the Evidence-based Practice Centers (EPC) Program to complete a review of the evidence for *Noninvasive Nonpharmacologic Treatment for Chronic Pain.* AHRQ is conducting this systematic review pursuant to Section 902(a) of the Public Health Service Act, 42 U.S.C. 299a(a).

The EPC Program is dedicated to identifying as many studies as possible that are relevant to the questions for each of its reviews. In order to do so, we are supplementing the usual manual and electronic database searches of the literature by requesting information from the public (*e.g.,* details of studies conducted). We are looking for studies that report on *Noninvasive Nonpharmacologic Treatment for Chronic Pain,* including those that describe adverse events. The entire research protocol is available online at: *https://effectivehealthcare.ahrq.gov/topics/noninvasive-nonpharm-pain-update/protocol.*

This is to notify the public that the EPC Program would find the following information on Noninvasive Nonpharmacologic Treatment for Chronic Pain helpful:

- A list of completed studies that your organization has sponsored for this indication. In the list, please *indicate whether results are available on ClinicalTrials.gov along with the ClinicalTrials.gov trial number.*
- *For completed studies that do not have results on ClinicalTrials.gov,* please provide a summary, including the following elements: Study number, study period, design, methodology, indication and diagnosis, proper use instructions, inclusion and exclusion criteria, primary and secondary outcomes, baseline characteristics, number of patients screened/eligible/enrolled/lost to follow-up/withdrawn/analyzed, effectiveness/efficacy, and safety results.
- *A list of ongoing studies that your organization has sponsored for this indication.* In the list, please provide the *ClinicalTrials.gov* trial number or, if the trial is not registered, the protocol for the study including a study number, the study period, design, methodology, indication and diagnosis, proper use instructions, inclusion and exclusion criteria, and primary and secondary outcomes.
- Description of whether the above studies constitute ALL Phase II and above clinical trials sponsored by your

organization for this indication and an index outlining the relevant information in each submitted file.

Your contribution will be very beneficial to the EPC Program. Materials submitted must be publicly available or able to be made public. Materials that are considered confidential; marketing materials; study types not included in the review; or information on indications not included in the review cannot be used by the EPC Program. This is a voluntary request for information, and all costs for complying with this request must be borne by the submitter.

The draft of this review will be posted on AHRQ's EPC Program website and available for public comment for a period of 4 weeks. If you would like to be notified when the draft is posted, please sign up for the email list at: *https://www.effectivehealthcare.ahrq.gov/email-updates.*

The systematic review will answer the following questions. This information is provided as background. AHRQ is not requesting that the public provide answers to these questions.

The Key Questions

1. In adults with chronic low back pain:

a. What are the benefits and harms of noninvasive nonpharmacologic therapies compared with sham treatment, no treatment, waitlist, attention control, or usual care?

b. What are the benefits and harms of noninvasive nonpharmacologic therapies compared with pharmacologic therapy (*e.g.,* NSAIDS, acetaminophen, antiseizure medications, antidepressants)?

c. What are the benefits and harms of noninvasive nonpharmacologic therapies compared with exercise?

2. In adults with chronic neck pain:

a. What are the benefits and harms of noninvasive nonpharmacologic therapies compared with sham treatment, no treatment, waitlist, attention control, or usual care?

b. What are the benefits and harms of noninvasive nonpharmacologic therapies compared with pharmacologic therapy?

c. What are the benefits and harms of noninvasive nonpharmacologic therapies compared with exercise?

3. In adults with osteoarthritis-related pain:

a. What are the benefits and harms of noninvasive nonpharmacologic therapies compared with sham treatment, no treatment, waitlist, attention control, or usual care?

b. What are the benefits and harms of noninvasive nonpharmacologic therapies compared with pharmacologic therapy?

c. What are the benefits and harms of noninvasive nonpharmacologic therapies compared with exercise?

4. In adults with fibromyalgia:

a. What are the benefits and harms of noninvasive nonpharmacologic therapies compared with sham treatment, no treatment, waitlist, attention control, or usual care?

b. What are the benefits and harms of noninvasive nonpharmacologic therapies compared with pharmacologic therapy?

c. What are the benefits and harms of noninvasive nonpharmacologic therapies compared with exercise?

5. In adults with chronic tension headache:

a. What are the benefits and harms of noninvasive nonpharmacologic therapies compared with sham treatment, no treatment, waitlist, attention control, or usual care?

b. What are the benefits and harms of noninvasive nonpharmacologic therapies compared with pharmacologic therapy?

c. What are the benefits and harms of noninvasive nonpharmacologic therapies compared with biofeedback?

6. Do estimates of benefits and harms differ by age, sex, presence of comorbidities (*e.g.,* emotional or mood disorders) or degree of nociplasticity/central sensitization?

PICOTS (Populations, Interventions, Comparators, Outcomes, Timing, Settings)

- *Population(s):* Adults (including pregnant or breastfeeding women) with the following chronic pain (defined as pain lasting 12 weeks or longer or pain persisting past the time for normal tissue healing) conditions specified in the Key Questions:
  - *Key Question 1:* Nonradicular chronic low back pain.
  - *Key Question 2:* Chronic neck pain without radiculopathy or myelopathy.
  - *Key Question 3:* Pain related to primary or secondary osteoarthritis.
  - *Key Question 4:* Fibromyalgia.
  - *Key Question 5:* Primary chronic tension headache (defined as 15 or more headache days per month for at least 3 months).
  - *Key Question 6:* Patients with any of the five chronic pain conditions.
- *Interventions (All Key Questions):*
  - Exercise.
  - Psychological therapies.
  - Physical modalities.
  - Manual therapies.
  - Mindfulness practices.
  - Mind-body practices.
  - Acupuncture.
  - Multidisciplinary/interdisciplinary rehabilitation (including functional restoration training).
- *Comparators:*
  - For all Key Questions, subquestion ''a''.
    - Sham treatment.
    - Waitlist.
    - Usual care.
    - Attention control.
    - No treatment.
  - For all Key Questions, subquestion ''b''.
    - Common nonopioid pharmacologic therapy used for chronic pain (NSAIDs, acetaminophen, antiseizure medications, antidepressants, muscle relaxants (including benzodiazepines) topical agents,(diclofenac, lidocaine capsaicin).
    - Medical marijuana (any formulation).
    - Opioid analgesics.
  - Key Questions 1–4, 6, subquestion ''c'': Exercise.
  - Key Question 5, 6, subquestion ''c'': Biofeedback.
- *Outcomes:*
  - Primary efficacy outcomes (in priority order); we will focus on outcomes from validated measures.
    - Function/disability/pain interference.
    - Pain.
  - Harms and adverse effects.
  - Secondary outcomes.
    - Psychological distress (including depression and anxiety).
    - Quality of life.
    - Opioid use.
    - Sleep quality, sleep disturbance.
    - Health care utilization.
- *Timing:*
  - Duration of followup: short term (up to 6 months), intermediate term (6–12 months) and long term (at least 1 year); we will focus on longer-term (≤1 year) effects where possible.
  - Studies with <1 month followup after treatment will be excluded.
- *Settings:*
  - Any nonhospital setting or setting of self-directed care.
  - Exclusions: Hospital care, hospice care, emergency department care.

Gopal Khanna,

Director.

[FR Doc. 2019–05143 Filed 3–18–19; 8:45 am]

BILLING CODE 4160–90–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30 Day-19–0234]

Agency Forms Undergoing Paperwork Reduction Act Review

In accordance with the Paperwork Reduction Act of 1995, the Centers for Disease Control and Prevention (CDC) has submitted the information collection request titled National Ambulatory Medical Care Survey (NAMCS) to the Office of Management and Budget (OMB) for review and approval. CDC previously published a ''Proposed Data Collection Submitted for Public Comment and Recommendations'' notice on August 10, 2018 to obtain comments from the public and affected agencies. CDC did not receive comments related to the previous notice. This notice serves to allow an additional 30 days for public and affected agency comments.

CDC will accept all comments for this proposed information collection project. The Office of Management and Budget is particularly interested in comments that:

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

(b) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

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

(d) Minimize the burden of the collection of information on those who are to respond, including, through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses; and

(e) Assess information collection costs.

To request additional information on the proposed project or to obtain a copy of the information collection plan and instruments, call (404) 639–7570 or send an email to *omb@cdc.gov.* Direct written comments and/or suggestions regarding the items contained in this notice to the Attention: CDC Desk Officer, Office of Management and Budget, 725 17th Street NW, Washington, DC 20503 or by fax to (202) 395–5806. Provide written comments within 30 days of notice publication.

Proposed Project

National Ambulatory Medical Care Survey (NAMCS) (OMB Control No. 0920–0234, Exp. Date 03/31/2019)—Revision—National Center for Health Statistics (NCHS), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Section 306 of the Public Health Service (PHS) Act (42 U.S.C. 242k), as amended, authorizes that the Secretary of Health and Human Services, acting through NCHS, shall collect statistics on the utilization of health care provided by non-federal office-based physicians in the United States. On March 14, 2016, the OMB approved data collection for three years from 2016 to 2018. This revision is to request approval to continue NAMCS data collection activities for three years from 2019–2021. The National Ambulatory Medical Care Survey (NAMCS) has been conducted intermittently from 1973 through 1985, and annually since 1989. The purpose of NAMCS, a voluntary survey, is to meet the needs and demands for statistical information about the provision of ambulatory medical care services in the United States. Ambulatory services are rendered in a wide variety of settings, including physicians' offices and hospital outpatient and emergency departments.

The NAMCS target universe consists of all office visits made by ambulatory patients to non-Federal office-based physicians (excluding those in the specialties of anesthesiology, radiology, and pathology) who are engaged in direct patient care. In 2006, physicians and non-physician clinicians (*i.e.,* nurse practitioners, physician assistants, and nurse midwives) practicing in community health centers (CHCs) were added to the NAMCS sample, and these data will continue to be collected. Having completed data collection on a number of topic areas such (a) as the prevention and treatment of sexually transmitted infections (STIs) and HIV (STD/PrEP) prevention, (b) culturally and linguistically appropriate services, and (c) alcohol and substance abuse screening and brief intervention, those items will be discontinued in 2019. Likewise, beginning in 2019 some existing instrument language will be modified to ensure communication of provider informed consent, and certain data items will be modified/deleted intended to (a) enhance data collection, (b) reduce provider burden, and (c) to maintain compliance with the Department of Health and Human Services guidance on data collection standards for race and ethnicity for self-identification. While the 2018 reabstraction of physician visits will continue into the 2019 calendar year, the 2019 reabstraction of patient visits will be discontinued. The supplemental sample of Meaningful Use (MU) physicians will again be fielded in 2020, with an increase in the sample size for survey years 2020 and 2021. Finally, a reinterview study will be initiated for 2019–2021.

There is no cost to the respondents other than their time. The estimated annual burden hours are 5,039.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hrs.)
Traditional Office-based Physicians or Staff ..	2018 Physician Induction Interview (NAMCS–1).	122	1	30/60
	2019+ Physician Induction Interview (NAMCS–1).	1,097	1	30/60
	2018 Pulling, re-filing medical record forms (FR abstracts).	99	30	1/60
	2019+ Pulling, re-filing medical record forms (FR abstracts).	893	30	1/60
MU Office-based Physician Staff	2019+ MU Physician Induction Interview (NAMCS–PFI).	2,000	1	45/60

ESTIMATED ANNUALIZED BURDEN HOURS—Continued

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hrs.)
	2019+ Pulling, re-filing medical record forms (MU Onboarding).	2,000	1	60/60
Community Health Center Executive/Medical Directors.	2018 Induction Interview—service delivery site (NAMCS–201).	12	1	30/60
	2019+ Induction Interview—service delivery site (NAMCS–201).	104	1	30/60
Community Health Center Providers	2018 Induction Interview—Providers (NAMCS–1).	36	1	30/60
	2019+ Induction Interview—Providers (NAMCS–1).	312	1	30/60
Community Health Center Provider Staff	2018 Pulling, re-filing medical record forms (FR abstracts).	36	30	1/60
	2019+ Pulling, re-filing medical record forms (FR abstracts).	312	30	1/60
Traditional Physician Office-based and Community Health Center Staff.	2018 Pulling, re-filing medical record forms (FR abstracts) for the Reabstraction Study.	3	10	1/60
Traditional Physician Office-based and Community Health Center Staff.	2019+ Reinterview Study	100	1	15/60

Jeffrey M. Zirger,

Lead, Information Collection Review Office, Office of Scientific Integrity, Office of Science, Centers for Disease Control and Prevention.

[FR Doc. 2019–05156 Filed 3–18–19; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30 Day-19–0850]

Agency Forms Undergoing Paperwork Reduction Act Review

In accordance with the Paperwork Reduction Act of 1995, the Centers for Disease Control and Prevention (CDC) has submitted the information collection request titled Laboratory Response Network to the Office of Management and Budget (OMB) for review and approval. CDC previously published a ''Proposed Data Collection Submitted for Public Comment and Recommendations'' notice on October 4, 2018 to obtain comments from the public and affected agencies. CDC received one comment related to the previous notice. This notice serves to allow an additional 30 days for public and affected agency comments.

CDC will accept all comments for this proposed information collection project. The Office of Management and Budget is particularly interested in comments that:

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

(b) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

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

(d) Minimize the burden of the collection of information on those who are to respond, including, through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses; and

(e) Assess information collection costs.

To request additional information on the proposed project or to obtain a copy of the information collection plan and instruments, call (404) 639–7570 or send an email to *omb@cdc.gov.* Direct written comments and/or suggestions regarding the items contained in this notice to the Attention: CDC Desk Officer, Office of Management and Budget, 725 17th Street NW, Washington, DC 20503 or by fax to (202) 395–5806. Provide written comments within 30 days of notice publication.

Proposed Project

Laboratory Response Network (0920–0850, Exp. Date 4/30/2019—Extension—National Center for Emerging and Zoonotic Infectious Diseases (NCEZID), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

CDC is requesting a three year extension without change to the data collection plan or tools. The only change is a decrease in annual burden hours from 2,382,300 to 2,064,660. The decrease is due to a decrease in the number of LRN member laboratories from 150 to 130 laboratories.

The Laboratory Response Network (LRN) was established by the Department of Health and Human Services (HHS), Centers for Disease Control and Prevention (CDC) in accordance with Presidential Decision Directive 39, which outlined national anti-terrorism policies and assigned specific missions to federal departments and agencies. The LRN's mission is to maintain an integrated national and international network of laboratories that can respond to suspected acts of biological, chemical, or radiological terrorism and other public health emergencies.

Federal, state and local public health laboratories join the LRN voluntarily. When laboratories join, they assume specific responsibilities and are required to provide information to the LRN Program Office at CDC. Each laboratory must submit and maintain complete information regarding the testing capabilities of the laboratory. Biennially, laboratories are required to review, verify and update their testing capability information. This information is needed so that the LRN Program Office can determine the ability of the Network to respond to a biological or chemical terrorism event. The sensitivity of all information associated with the LRN requires that CDC obtain

personal information about all individuals accessing the LRN website. Since CDC must be able to contact all laboratory personnel during an event, each laboratory staff member who obtains access to the restricted LRN website must provide his or her contact information to the LRN Program Office.

As a requirement of membership, LRN laboratories must report all biological and chemical testing results to the LRN Program using a CDC developed software tool called the LRN Results Messenger, or through the laboratory information management system (LIMS) which CDC refers to as Data Integration. CDC supplies this software to LRN laboratories at no charge. This information obtained from LRN laboratories is essential for surveillance of anomalies, to support response to an event that may involve multiple agencies, and to manage limited resources.

LRN laboratories are also required to participate in Proficiency Testing Challenges or Validation Studies and report their results to CDC. LRN laboratories participate in multiple Proficiency Testing Challenges, Exercises and/or Validation Studies every year. These activities consist of 5–500 simulated samples provided by CDC. These challenges are necessary to verify the testing capability of the LRN laboratories. Because biological or chemical agents perceived to be of bioterrorism concern can occur rarely, some LRN laboratories may not be maintaining proficiency in certain testing methods as a result of day-to-day testing. Thus, simulated samples are distributed to ensure proficiency across LRN member laboratories. LRN laboratories also enter the results of these simulated samples into the LRN Results Messenger or through Data Integration for evaluation by CDC.

During a surge event resulting from a bioterrorism or chemical terrorism attack, or during an emerging infectious disease outbreak, LRN Laboratories must submit all testing results using LRN Results Messenger or through Data Integration. CDC uses these results in order to track the progression of a bioterrorism event, responds in the most efficient and effective way possible, and shares this data with other Federal partners involved in the response.

Data is collected via two primary avenues, the program LRN Results Messenger or through Data Integration and the LRN website. Laboratories belonging to the Laboratory Response Network utilize the CDC developed software tool LRN Results Messenger to submit testing results to CDC. Data Integration is an effort parallel to the LRN Results Messenger which will ultimately allow laboratories to submit data to CDC using their own data collection systems. Results include details about the type and source of samples as well as the tests performed and the numerical and empirical results of those tests. The LRN website is used by laboratories to provide their complete testing capabilities to CDC. All individuals who use the LRN website must provide their contact information to the LRN Program Office during registration.

An LRN laboratory must provide its testing capabilities, physical and shipping addresses, United States Department of Agriculture (USDA) and Select Agent Permits, and specified responsible individuals' names, phone numbers and email addresses. After registering with the LRN website, a user must provide his/her first and last name, work phone number, alternate phone number, email address, and month and day of birth.

During reporting of results, sample details, tests performed, results obtained, and conclusions of tests are required. Accomplishments during the last three years include the requalification of labs. The requalification occurred between November 7, 2016 and December 12, 2016. We had 130 domestic LRN labs tasked with completing the requalification, and had a 96% response rate. The LRN website has remained the same, and has only undergone routine maintenance since 2015 to keep it in working order.

This data collection is authorized under the Public Health Service Act, (42 U.S.C. 241) Section 301. CDC has estimated the annualized burden for this project to be 2,064,660 hours, a decrease of 317,640 hours per year. There is no cost to respondents other than the time to participate.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)
Public health laboratories	Biennial Requalification	130	1	2
	General Surveillance Testing Results	130	25	24
	Proficiency Testing/Validation Testing Results.	130	5	56
	Surge Event Testing Results	130	625	24

Jeffrey M. Zirger,

Lead, Information Collection Review Office, Office of Scientific Integrity, Office of Science, Centers for Disease Control and Prevention.

[FR Doc. 2019–05152 Filed 3–18–19; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30 Day-19–1090]

Agency Forms Undergoing Paperwork Reduction Act Review

In accordance with the Paperwork Reduction Act of 1995, the Centers for Disease Control and Prevention (CDC) has submitted the information collection request titled Formative and Summative Evaluation of Scaling the National Diabetes Prevention Program (National DPP) in Underserved Areas to the Office of Management and Budget (OMB) for review and approval. CDC previously published a ''Proposed Data Collection Submitted for Public Comment and Recommendations'' notice on October 4, 2018 to obtain comments from the public and affected agencies. CDC received and responded to five sets of unique public comments related to the previous notice. This notice serves to allow an additional 30

days for public and affected agency comments.

CDC will accept all comments for this proposed information collection project. The Office of Management and Budget is particularly interested in comments that:

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

(b) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

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

(d) Minimize the burden of the collection of information on those who are to respond, including, through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses; and

(e) Assess information collection costs.

To request additional information on the proposed project or to obtain a copy of the information collection plan and instruments, call (404) 639–7570 or send an email to *omb@cdc.gov.* Direct written comments and/or suggestions regarding the items contained in this notice to the Attention: CDC Desk Officer, Office of Management and Budget, 725 17th Street NW, Washington, DC 20503 or by fax to (202) 395–5806. Provide written comments within 30 days of notice publication.

Proposed Project

Formative and Summative Evaluation of Scaling the National Diabetes Prevention Program (National DPP) in Underserved Areas (OMB No. 0920–1090, exp. 12/31/2018)—Reinstatement with Change—National Center for Chronic Disease Prevention and Health Promotion (NCCDPHP), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

The CDC-led National Diabetes Prevention Program (DPP) is a partnership of public and private organizations working collectively to build the infrastructure for nationwide delivery of an evidence-based lifestyle change program to prevent or delay type 2 diabetes among adults with prediabetes. The National DPP lifestyle change program is founded on the science of the Diabetes Prevention Program research study and several translation studies that followed, which showed that making modest behavior changes helped people with prediabetes lose 5% to 7% of their body weight and reduce their risk of developing type 2 diabetes by 58% (71% for people over 60 years old). From 2012 to 2017, CDC funded six national organizations through a cooperative agreement to establish and expand multistate networks of over 200 program delivery organizations that were able to meet national standards and achieve the outcomes proven to prevent or delay onset of type 2 diabetes. CDC has conducted a formative and summative evaluation of this program and used the evaluation findings and lessons learned to provide data-driven technical assistance to the grantees and other organizations delivering the National DPP lifestyle change program. The data and lessons learned from DP12–1212 were also used to inform decision-making and policy, including the development of the Centers for Medicare & Medicaid Services (CMS) Medicare Diabetes Prevention Program (MDPP). As of April 1, 2018, the MDPP Expanded Model provides coverage for the National DPP lifestyle change program for eligible Medicare beneficiaries.

Despite the fact that over 1,700 CDC-recognized organizations in 50 states, the District of Columbia, Puerto Rico, the Virgin Islands, and other U.S.-affiliated island jurisdictions/territories offer the National DPP lifestyle change program, there are still many geographic areas with few, or no, in-person delivery programs. In addition, some populations, including Medicare beneficiaries, men, African-Americans, Asian-Americans, Hispanics, American Indians, Alaska Natives, Pacific Islanders, and people with visual impairment or physical disabilities, are under-enrolled relative to their estimated numbers and disease burden. To address these gaps, CDC funded a new, five-year cooperative agreement with ten new national organizations in September 2017, ''Scaling the National DPP in Underserved Areas'' (DP17–1705). CDC funded 10 national organizations with affiliate program delivery sites in at least three states, each to start new CDC-recognized organizations in underserved areas and to enroll both general and priority populations in new or existing CDC-recognized organizations. The DP17–1705 grantees will work on activities designed to accomplish three main goals:

(1) Build the infrastructure in underserved areas necessary to deliver the National DPP lifestyle change program to the general population and to priority populations, including Medicare beneficiaries, men, African-Americans, Asian-Americans, Hispanics, American Indians, Alaska Natives, Pacific Islanders, and non-institutionalized people with visual or physical disabilities;

(2) Tailor and adapt the program to address the unique needs and challenges of the enrolled participants; and

(3) Provide participants with specialized support needed to successfully complete the program and achieve 5–7% weight loss. Through this new cooperative agreement, it is anticipated that enrollment, retention, and achievement of 5–7% weight loss in the targeted populations will increase.

At this time, CDC requests an additional three years of OMB approval to continue collecting information needed to evaluate the effectiveness of CDC's funding for the new grantees. The data collection will allow CDC to continue to provide data-driven, tailored programmatic technical assistance to ensure continuous quality improvement for each year of the cooperative agreement. A number of additional changes to the evaluation forms are proposed based on the public comments received from the previously published notice on October 4, 2018 to reduce burden on respondents. Evaluation data elements have been modified accordingly to ensure that reporting and evaluation requirements are consistent with the aims of the new cooperative agreement and reflect lessons learned from the original funded national organizations and their affiliate delivery sites. Also, the method of data collection has changed from an Excel spreadsheet to a web-based data system to allow for real-time feedback and technical assistance. The estimated reporting burden has increased and is expected to vary between three and five hours with an average of four hours per grantee response (increased from average of three hours in the previous notice), and between five and seven hours with an average of six hours per affiliate delivery site response (increased from an average of five hours in the previous notice). These estimated burden hours include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and entering data in the web-based data system. The number of respondents will increase with the increased number of grantees. These changes result in a net increase of 478 annualized burden

hours. There are no costs to respondents other than their time.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)
National DPP Affiliate Delivery Sites	Evaluation Form for Sites	100	1	6
National DPP Grantees	Evaluation Form for Grantees	10	1	4

Jeffrey M. Zirger,

Lead, Information Collection Review Office, Office of Scientific Integrity, Office of Science, Centers for Disease Control and Prevention.

[FR Doc. 2019–05155 Filed 3–18–19; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–19–1050]

Agency Forms Undergoing Paperwork Reduction Act Review

In accordance with the Paperwork Reduction Act of 1995, the Centers for Disease Control and Prevention (CDC) has submitted the information collection request titled *Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery* to the Office of Management and Budget (OMB) for review and approval. CDC previously published a ''Proposed Data Collection Submitted for Public Comment and Recommendations'' notice on March 23, 2018 to obtain comments from the public and affected agencies. CDC did not receive comments related to the previous notice. This notice serves to allow an additional 30 days for public and affected agency comments.

CDC will accept all comments for this proposed information collection project. The Office of Management and Budget is particularly interested in comments that:

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

(b) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

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

(d) Minimize the burden of the collection of information on those who are to respond, including, through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses; and

(e) Assess information collection costs.

To request additional information on the proposed project or to obtain a copy of the information collection plan and instruments, call (404) 639–7570 or send an email to *omb@cdc.gov.* Direct written comments and/or suggestions regarding the items contained in this notice to the Attention: CDC Desk Officer, Office of Management and Budget, 725 17th Street NW, Washington, DC 20503 or by fax to (202) 395–5806. Provide written comments within 30 days of notice publication.

Proposed Project

Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery (OMB 0920–1050, Expiration 6/30/2019)—Revision—Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Executive Order 12862 directs Federal agencies to provide service to the public that matches or exceeds the best service available in the private sector. In order to work continuously to ensure that our programs are effective and meet our customers' needs, Centers for Disease Control and Prevention (CDC) seeks to obtain OMB approval of a generic clearance to collect qualitative feedback on our service delivery on collections. The information collection activity will garner qualitative customer and stakeholder feedback in an efficient, timely manner, in accordance with the Administration's commitment to improving service delivery. By qualitative feedback we mean information that provides useful insights on perceptions and opinions, but are not statistical surveys that yield quantitative results that can be generalized to the population of study. This feedback will provide insights into customer or stakeholder perceptions, experiences and expectations, provide an early warning of issues with service, or focus attention on areas where communication, training or changes in operations might improve delivery of products or services. These collections will allow for ongoing, collaborative and actionable communications between the Agency and its customers and stakeholders. It will also allow feedback to contribute directly to the improvement of program management.

Feedback collected under this generic clearance will provide useful information, but it will not yield data that can be generalized to the overall population. This type of generic clearance for qualitative information will not be used for quantitative information collections that are designed to yield reliably actionable results, such as monitoring trends over time or documenting program performance. Such data uses require more rigorous designs that address: The target population to which generalizations will be made, the sampling frame, the sample design (including stratification and clustering), the precision requirements or power calculations that justify the proposed sample size, the expected response rate, methods for assessing potential non-response bias, the protocols for data collection, and any testing procedures that were or will be undertaken prior fielding the study. Depending on the degree of influence the results are likely to have, such collections may still be eligible for submission for other generic mechanisms that are designed to yield quantitative results.

The Agency received no comments in response to the 60-day notice published in the **Federal Register** on March 23, 2018 (vol. 83, No. 57, pages 12766–12768). OMB approval is requested for three years. The estimated annualized burden hours are 22,250.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of collection	Number of respondents	Frequency per response	Hours per response
Interviews, in person surveys, telephone surveys, in person observation/testing	10,000	1	30/60
Focus groups	1,000	1	120/60
Customer comment cards, interactive voice surveys	61,000	1	15/30

Jeffrey M. Zirger,

Lead, Information Collection Review Office, Office of Scientific Integrity, Office of Science, Centers for Disease Control and Prevention.

[FR Doc. 2019–05153 Filed 3–18–19; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS–10377, CMS–10465, CMS–10507 and CMS–10464]

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 18, 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:* Extension a currently approved collection; *Title of Information Collection:* Student Health Insurance Coverage; *Use:* Under the Student Health Insurance Coverage Final Rule published March 21, 2012 (77 FR 16453), student health insurance coverage is a type of individual health insurance coverage provided pursuant to a written agreement between an institution of higher education (as defined in the Higher Education Act of 1965) and a health insurance issuer, and provided to students who are enrolled in that institution and their dependents. The Patient Protection and Affordable Care Act; HHS Notice of Benefit and Payment Parameters for 2017 Final Rule provided that, for policy years beginning on or after July 1, 2016, student health insurance coverage is exempt from the actuarial value (AV) requirements under section 1302(d) of the Affordable Care Act, but must provide coverage with an AV of at least 60 percent. This provision also requires issuers of student health insurance coverage to specify in any plan materials summarizing the terms of the coverage the AV of the coverage and the metal level (or the next lowest metal level) the coverage would otherwise satisfy under § 156.140. This disclosure will provide students with information that allows them to compare the student health coverage with other available coverage options. *Form Number:* CMS–10377 (OMB control number: 0938–1157); *Frequency:* Annually; *Affected Public:* Private Sector; *Number of Respondents:* 52; *Total Annual Responses:* 1,176,235; *Total Annual Hours:* 52. (For policy questions regarding this collection contact Russell Tipps at 301–492–4371).

2. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Minimum Essential Coverage; *Use:* The final rule titled ''Patient Protection and Affordable Care Act; Exchange Functions: Eligibility for Exemptions; Miscellaneous Minimum Essential Coverage Provisions,'' published July 1, 2013 (78 FR 39494), designates certain types of health coverage as minimum essential coverage. Other types of coverage, not statutorily designated and not designated as minimum essential coverage in regulation, may be recognized by the Secretary of Health and Human Services (HHS) as minimum essential coverage if certain substantive and procedural requirements are met.

To be recognized as minimum essential coverage, the coverage must offer substantially the same consumer protections as those enumerated in the Title I of Affordable Care Act relating to non-grandfathered, individual health insurance coverage to ensure consumers are receiving adequate coverage. The final rule requires sponsors of other coverage that seek to have such coverage recognized as minimum essential coverage to adhere to certain procedures. Sponsoring organizations must submit to HHS certain information about their coverage and an attestation that the plan substantially complies with the provisions of Title I of the Affordable Care Act applicable to non-grandfathered individual health insurance coverage. Sponsors must also provide notice to enrollees informing them that the plan has been recognized as minimum essential coverage for the purposes of the individual coverage requirement. *Form Number:* CMS–10465 (OMB control number 0938–1189); *Frequency:* Occasionally; *Affected Public:* Public and private sectors; *Number of Respondents:* 10; *Total Annual Responses:* 10; *Total Annual Hours:* 52.5. (For policy questions regarding this collection contact Russell Tipps at 301–492–4371.)

3. Type of Information Collection Request: Revision of a currently approved collection; *Title of Information Collection:* State-based Exchange Annual Report Tool (SMART); *Use:* The annual report is the primary vehicle to insure comprehensive compliance with all reporting requirements contained in the Affordable Care Act (ACA). It is specifically called for in Section 1313(a)(1) of the Act which requires an State Based Exchange (including an Exchange using the Federal Platform) to keep an accurate accounting of all activities, receipts, and expenditures, and to submit a report annually to the Secretary concerning such accounting. CMS will use the information collected from States to assist in determining if a State is maintaining a compliant operational Exchange. *Form Number:* CMS–10507 (OMB control number 0938–1244); *Frequency:* Annually; *Affected Public:* State, Local, or Tribal governments; *Number of Respondents:* 17; *Total Annual Responses:* 17; *Total Annual Hours:* 3,415. (For policy questions regarding this collection contact Christy Woods at 301–492–5140.)

4. *Type of Information Collection Request:* Revision of a currently approved information collection; *Title of Information Collection:* Agent/Broker Data Collection in Federally-Facilitated Health Insurance Exchanges; *Use:* The Patient Protection and Affordable Care Act, Public Law 111–148, enacted on March 23, 2010, and the Health Care and Education Reconciliation Act, Public Law 111–152, enacted on March 30, 2010 (collectively, ''Affordable Care Act''), expands access to health insurance for individuals and employees of small businesses through the establishment of new Affordable Insurance Exchanges (Exchanges), also called Marketplaces, including the Small Business Health Options Program (SHOP). Revised requirements pertaining to agents/brokers completing Federally-facilitated Exchange (FFE) registration are discussed in the final rule published on February 27, 2015 for the Patient Protection and Affordable Care Act; HHS Notice of Benefit and Payment Parameters for 2016 (CMS–9944–F). These updated requirements direct agents/brokers to submit additional fields related to basic contact information and National Producer Number (NPN). Current state licensure and relevant health lines of authority (LOA) are then validated using the National Insurance Producer Registry (NIPR) database. *Form Number:* CMS–10464 (OMB control number 0938–1204); *Frequency:* Annually; *Affected Public:* Private Sector (Business or other for-profits); *Number of Respondents:* 52,000; *Total Annual Responses:* 52,000; *Total Annual Hours:* 12,480. (For policy questions regarding this collection contact Madeline Pellish at 301–492–4390.)

Dated: March 14, 2019.

William N. Parham, III,

Director, Paperwork Reduction Staff, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2019–05129 Filed 3–18–19; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

[OMB No.: 0970–0416]

Proposed Information Collection Activity; Comment Request

Proposed Projects

Title: 2020 Current Population Survey-Child Support Supplement.

Description: Collection of these data will assist legislators and policymakers in determining how effective their policymaking efforts have been over time in applying the various child support legislation to the overall child support enforcement picture. This information will help policymakers determine to what extent individuals on welfare would be removed from the welfare rolls as a result of more stringent child support enforcement efforts.

Respondents: Individuals and households.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
2020 Current Population Survey-Child Support Supplement	41,300	1	0.03	1,239

Estimated Total Annual Burden Hours: 1,239.

In compliance with the requirements of the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chap 35), the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Planning, Research and Evaluation, 330 C Street SW, Washington, DC 20201. Attn: ACF Reports Clearance Officer. Email address: *infocollection@acf.hhs.gov.* All requests should be identified by the title of the information collection.

The Department specifically requests comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the

information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Mary B. Jones,

ACF/OPRE Certifying Officer.

[FR Doc. 2019–05098 Filed 3–18–19; 8:45 am]

BILLING CODE 4184–41–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; National Medical Support Notice—Part A (OMB #0970–0222)

AGENCY: Office of Child Support Enforcement; Administration for Children and Families; HHS.

ACTION: Request for public comment.

SUMMARY: The Administration for Children and Families (ACF) is requesting a three year extension of the form National Medical Support Notice (NMSN) Part A (OMB #0970–0222 expiration 8/31/2019). The following changes were made to the form: A checkbox was added to distinguish between the National Medical Support Order/Notice (NMSN) and the a Termination Order/Notice. The following instruction was added under the Employer Responsibilities: 3. If the Termination Order/Notice checkbox is checked, you are required to terminate the health care coverage for the child(ren) identified in the order.

DATES: *Comments due within 60 days of publication.* In compliance with the requirements of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above.

ADDRESSES: Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Planning, Research, and Evaluation, 330 C Street SW, Washington, DC 20201, Attn: OPRE Reports Clearance Officer. Email address: *OPREinfocollection@acf.hhs.gov.* All requests should be identified by the title of the information collection.

SUPPLEMENTARY INFORMATION:

Description: The National Medical Support Notice (NMSN) is a two-part document completed by state child support enforcement agencies, employers, and health plan administrators to enforce health care coverage provisions in a child support order. The Department of Health and Human Services (DHHS) developed and maintains Part A of the NMSN, which is sent to an obligor's employer for completion; the Department of Labor (DOL) developed and maintains Part B of the NMSN, which is provided to health care administrators following completion of Part A. The Administration for Children and Families is requesting that the NMSN Part A expiration dates continue to be synchronize with the expiration date of NMSN Part B submitted by DOL.

Respondents: State child support enforcement agencies, employers, and health plan administrators.

ANNUAL BURDEN ESTIMATES

Instrument	Respondent	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
National Medical Support Notice—Part A—Notice to Withhold for Health Care Coverage.	State	54	89,634	.17	822,840
	Employers	1,027,484	4.71	.17	822,706

Estimated Total Annual Burden Hours: 1,645,546.

Comments: The Department specifically requests comments on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Authorities: Section 466(a)(19) of the Social Security Act (42 U.S.C 666(a)(19)), section 609(a)(5)(C) of the Employee Retirement Income Security Act of 1974 (ERISA) (29 U.S.C. 1169(a)(5)(C)), and for State and local government and church plans sections 401(e) and (f) of the Child Support Performance and Incentive Act of 1998 (29 CFR 2590.609–2).

Mary B. Jones,

ACF/OPRE Certifying Officer.

[FR Doc. 2019–05097 Filed 3–18–19; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Community Living

[OMB # 0985–New]

Agency Information Collection Activities; Submission for OMB Review; Public Comment Request; One Protection and Advocacy Annual Program Performance Report

AGENCY: Administration for Community Living (ACL), HHS.

ACTION: Notice.

SUMMARY: The Administration for Community Living is announcing that the proposed collection of information listed above has been submitted to the Office of Management and Budget (OMB) for review and clearance as required by the Paperwork Reduction Act of 1995. This 30-Day notice collects comments on the information collection

requirements related to the proposed new data collection (ICR New).

DATES: Submit written comments on the collection of information by April 18, 2019.

ADDRESSES: Submit written comments on the collection of information by:

(a) Email to: *OIRA_submission@omb.eop.gov,* Attn: OMB Desk Officer for ACL;

(b) fax to 202.395.5806, Attn: OMB Desk Officer for ACL; or

(c) by mail to the Office of Information and Regulatory Affairs, OMB, New Executive Office Bldg., 725 17th St. NW, Rm. 10235, Washington, DC 20503, Attn: OMB Desk Officer for ACL.

FOR FURTHER INFORMATION CONTACT: Ophelia McLain, Administration for Community Living, Administration on Intellectual and Developmental Disabilities, Office of Program Support, 330 C Street SW, Washington, DC 20201, (202) 795–7401 or *Ophelia.McLain@acl.hhs.gov*.

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, ACL has submitted the following proposed collection of information to OMB for review and clearance. ACL is publishing a notice of the proposed collection of information set forth in this document.

This proposed new data collection will replace four existing Protection and Advocacy Program Performance Reports and other revisions.

The four annual reports include the following: (1) Developmental Disabilities Protection and Advocacy Systems Program Performance Report (0985–0027), (2) Protection and Advocacy for Assistive Technology (PAAT) Program Performance Report (0985–0046); (3) Protection and Advocacy Voting Access Annual Report (Help America Vote Act) (HAVA) (0985–0028); and (4) Protection and Advocacy for Traumatic Brain Injury (PATBI) Program Performance Report (0985–0058).

State Protection and Advocacy (P&A) Systems in each State and Territory provide individual legal advocacy, systemic advocacy, monitoring and investigations to protect and advance the rights of people with developmental disabilities, using funding administered by the Administration on Intellectual and Developmental Disabilities (AIDD), Administration on Disabilities, Administration for Community Living, HHS. To meet statutory reporting requirements, P&As have used four separate forms for submitting annual reports. It is proposed that the four forms be combined by creating the One Protection and Advocacy Annual Program Performance Report form. Once the four program performance reports are combined, the current OMB approval numbers for each report will be retired, and a new approval number will be created for the One Protection and Advocacy Program Performance Report. Each P&A system currently submits four separate reports to AIDD—one report for each of the funding sources listed below. By combining the forms, P&As will have a reduced burden because they will be submitting only one report annually. Duplicative background and other data that appear in multiple reports will only need to be entered once.

This also will promote accuracy and consistency because this data will not need to be entered multiple times. The authority for each report is as follows:

- The Developmental Disabilities Assistance and Bill of Rights Act, 42 U.S.C. 15044: Federal statute and regulation require each P&A to annually prepare a report that describes the activities and accomplishments of the system during the preceding fiscal year and a Statement of Goals and Priorities for each coming fiscal year.

P&As are required to annually report on ''the activities, accomplishments, and expenditures of the system during the preceding fiscal year, including a description of the system's goals, the extent to which the goals were achieved, barriers to their achievement, the process used to obtain public input, the nature of such input, and how such input was used.''

- The Children's Health Act of 2000, 42 U.S.C. Section 300d–53(h), requires the P&A System in each State to annually prepare and submit to the Secretary a report that includes documentation of the progress they have made in serving individuals with traumatic brain injury.
- The Assistive Technology Act of 1998, Section 5, as amended, Public Law 108–36, (AT Act), requires the P&A System in each State to annually prepare and submit to the Secretary a report that includes documentation of the progress they have made in—

1. conducting consumer-responsive activities, including activities that will lead to increased access for individuals with disabilities to funding for assistive technology devices and assistive technology services;
2. engaging in informal advocacy to assist in securing assistive technology and assistive technology services for individuals with disabilities;
3. engaging in formal representation for individuals with disabilities to secure systems change, and in advocacy activities to secure assistive technology and assistive technology services for individuals with disabilities;
4. developing and implementing strategies to enhance the long-term abilities of individuals with disabilities and their family members, guardians, advocates, and authorized representatives to advocate the provision of assistive technology devices and assistive technology services to which the individuals with disabilities are entitled under law other than this Act; and
5. coordinating activities with protection and advocacy services funded through sources other than this title, and coordinating activities with the capacity building and advocacy activities carried out by the lead agency.

- The Help America Vote Act, Public Law 107–252, Title II, Subtitle D, Section 291, (42 U.S.C. 15461), requires each grantee to annually submit a narrative report describing the work performed with the funds authorized under 42 U.S.C. 15461 of the Help America Vote Act of 2002.

The combined form will also allow federal reviewers to analyze patterns more readily between goals, priority setting, and program performance. The annual program performance report (PPR) is reviewed by federal staff for compliance and outcomes. Information in the PPRs is analyzed to create a national profile of programmatic compliance, outcomes, and goals and priorities for P&A Systems for tracking accomplishments against these goals and priorities and to determine areas needing technical assistance, including compliance with Federal requirements.

Information collected in the unified report will inform AIDD of trends in P&A advocacy, collaboration with other Federally-funded entities, and identify best practices for efficient use of federal funds.

Comments in Response to the 60 Day Federal Register Notice

A 60-day comment period was provided. The solicitation of comments for the proposed information collection was published in the **Federal Register**, Vol. 83, No. 198 (Friday, October 12, 2018).

Five comments were received during the public comment period. Three addressed AIDD's and the Secretary's monitoring role of the P&As.

They were not relevant to this request for comment. One commenter suggested AIDD collect information on employees with disabilities in the proposed section on ''Consumer Involvement in Governance.'' As consumer involvement in all levels of P&A activity is important, AIDD adopts that suggestion

for the revised form. One commenter suggested that we change the list of AT devices. After consideration of the comment, AIDD will modify the list of AT devices while retaining the majority of the original categories. One commenter suggested we delay the data collection for one year to allow grantees time to prepare. While this may be optimal, two other tools are expiring in 2019. Therefore, AIDD will proceed with using this data collection in 2019.

Issues of the scope, content, availability of data, format, and clarity of instructions for the One PPR have been discussed with all of the P&A systems through focus groups, work groups, and in conferences organized on behalf of Administration on Intellectual and Developmental Disabilities by the National Disability Rights Network (NDRN). The format is based on the efforts of these focus groups, work groups, and conferences.

The proposed form(s) may be found on the ACL website at: *https://www.acl.gov/about-acl/public-input.*

Estimated Program Burden

The annual burden on this form is estimated as 7,296 annual burden hours.

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
One Protection and Advocacy Annual Program Performance Report	57	1	128	7,296

Dated: March 13, 2019.

Lance Robertson,

Administrator and Assistant Secretary for Aging.

[FR Doc. 2019–05114 Filed 3–18–19; 8:45 am]

BILLING CODE 4154–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Community Living

Agency Information Collection Activities; Submission for OMB Review; Public Comment Request; No Wrong Door (NWD) System Management Tool

AGENCY: Administration for Community Living (ACL), HHS.

ACTION: Notice.

SUMMARY: The Administration for Community Living is announcing that the proposed collection of information listed above has been submitted to the Office of Management and Budget (OMB) for review and clearance as required by the Paperwork Reduction Act of 1995. This 30-Day notice collects comments on the information collection requirements related to ACL's Aging and Disability Resource Center/No Wrong Door System (ADRC/NWD) New Data Collection (ICR New).

DATES: Submit written comments on the collection of information by April 18, 2019.

ADDRESSES: Submit written comments on the collection of information by:

(a) email to: *OIRA_submission@omb.eop.gov,* Attn: OMB Desk Officer for ACL;

(b) fax to 202.395.5806, Attn: OMB Desk Officer for ACL; or

(c) by mail to the Office of Information and Regulatory Affairs, OMB, New Executive Office Bldg., 725 17th St. NW, Rm. 10235, Washington, DC 20503, Attn: OMB Desk Officer for ACL.

FOR FURTHER INFORMATION CONTACT: Joseph Lugo at *joseph.lugo@acl.hhs.gov* or 202–795–7391.

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, ACL has submitted the following proposed collection of information to OMB for review and clearance.

The NWD System Management Tool (NWD MT) provides a platform documenting key elements that are necessary to evaluate the progress of the NWD System model and to understand and document the extent to which a state's NWD System is streamlining and coordinating access to LTSS through four core functions of State Governance and Administration, Public Outreach and Coordination with Key Referral Sources, Person-Centered Counseling, and Streamlined Eligibility for Public Programs.

In addition, this tool will include data collection for the Veteran Directed Care (VDC) program, an evidence-based self-directed program where person-centered counselors from aging and disability network agencies within a state's NWD System provide facilitated assessment and care planning, arrange fiscal management services and provide ongoing counseling and support to Veterans, their families and caregivers. The VDC too will collect qualitative and quantitative data elements necessary to evaluate the impact of the VDC program.

The NWD MT and the VDC tool will enable ACL and its partners to collect and analyze data elements necessary to assess the progress of the NWD System model, track performance measures, and identify gaps and best practices. These tools have been designed in close collaboration with states and are intended to simplify grant reporting requirements to reduce burden on local and state entities and will provide a consistent, streamlined and coordinated statewide approach to help states govern their NWD System and manage their programs efficiently.

Comments in Response to the 60-Day Federal Register Notice

A notice was published in the **Federal Register** on November 2, 2018, Volume 83, Number 213, pp. 55186–55187. Three emails were received with comments.

In addition to the public comments, feedback on the tools were sought from the following:

- ACL Performance and Evaluation subject matter experts.
- VHA and CMS subject matter experts.
- Subject-matter experts at state agencies representing Aging, Intellectual/Developmental Disabilities, Physical Disabilities, and Medicaid.
- Grantee focus groups and workgroups (with fewer than 9 participants).

ACL's response to the comments received are noted in the table below:

Data collection form	Comment	ACL response
NWD Management Tool	I understand that although not required, health information shared solution models that are multi-state adoptable is key to the NWD system, tracking, and monitoring systems of the I/DD care and services. Please feel free to share this correspondence with team members/stakeholders whom we can speak with in regards to furthering contact with regarding healthcare technology expansion within the I/DD industry.	ACL appreciates the commenter's views on healthcare technology and I/DD care and services, however ACL finds this comment to be unrelated to the proposed data collection tools.
NWD Management Tool	In State Level Question 5 and Local Level Question 1 related to funding of the NWD System, it is unclear if the dollars and percentages to be reported are actual dollars or if that can include in-kind contributions. One of the choices in those two reporting tables under Federal Funding is ''Other ACL Programs'' which references Assistive Technology. A State/Territory AT Program could make an in-kind contribution to the state or local level NWD system, *e.g.,* they could provide a refurbished AT device allowing an individual to remain in their home as part of their reuse program (state level AT Act activity) or they could provide training on AT for NWD staff/partners (state leadership AT activity). It is highly unlikely there would be actual Section 4 AT Act dollars being provided to the NWD state system budget as the NWD System functions as outlined for these data points are not authorized activities for use of Section 4 funds under the AT Act. It would be helpful to clarify if in-kind contributions are or are not to be reported in both of these tables.	ACL appreciates this comment and fully understands the authorizations of Section 4 AT Act dollars. The State Level question 5 and Local Level Question 1 are meant to capture actual expenditures and dollars supporting NWD System functions, not in-kind contributions. Therefore, in response to this comment, ACL proposes to edit these questions for clarification and remove Assistive Technology as an example under ''Other ACL Programs.''
NWD Management Tool	The level of detail proposed is tremendous, with no permanent federal funding source for the programs. The number of divisions within Nebraska DHHS & Nebraska Veterans Administration will require significant coordination. If the information remains as proposed, I would suggest a long lead time in collection requirements. Or parceled out requests and the ability for each division to address their area of expertise.	ACL appreciates this comment and understands that states and aging and disability network agencies will need support (*e.g.,* training, grant funding, etc.) before beginning the data collection. The state's NWD Lead Agency will determine which state and local partners would contribute to the data collection. Various agencies and divisions may prepare for data submission in phases, as determined by the state.

The proposed form(s) may be found on the ACL website at: *https://www.acl.gov/about-acl/public-input.*

Estimated Program Burden

ACL estimates the burden of this collection of information as 112 hours for state level staff, 7,968 hours for local agency staff and 2,400 hours for VDC program providers for a total of 10,480 hours. This burden estimate is calculated based upon a sample of states and program providers testing the NWD MT and VDC Tool. The estimated response burden includes time to review the instructions, gather existing information, and complete and review the data entries in a web-based system.

Respondent/data collection activity	Number of respondents	Responses per respondent	Hours per response	Annual burden hours
NWD Management Tool data collection and entry—State Level	56	2	1.0	112
NWD Management Tool data collection and entry—Local Level	996	2	4.0	7,968
Veteran Directed Care Tool	400	12	0.5	2,400
Total:	1,452	6, 904		10,480

Dated: March 13, 2019.

Lance Robertson,

Administrator and Assistant Secretary for Aging.

[FR Doc. 2019–05115 Filed 3–18–19; 8:45 am]

BILLING CODE 4154–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2019–N–0549]

Agency Information Collection Activities; Proposed Collection; Comment Request; Medical Devices; Use of Symbols in Labeling—Glossary to Support the Use of Symbols in Labeling

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on product labeling regulations to explicitly allow for the optional inclusion of graphical representations of information, or symbols, in labeling (including labels) without adjacent explanatory text (referred to in this document as ''stand-alone symbols'') if certain requirements are met.

DATES: Submit either electronic or written comments on the collection of information by May 20, 2019.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. Electronic comments must be submitted on or before May 20, 2019. The *https://www.regulations.gov* electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of May 20, 2019. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

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

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

Written/Paper Submissions

Submit written/paper submissions as follows:

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

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

Instructions: All submissions received must include the Docket No. FDA–2019–N–0549 for ''Use of Symbols in Labeling.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

• Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.gpo.gov/fdsys/pkg/FR-;2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Amber Sanford, Office of Operations, Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–8867, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice

of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Medical Devices: Use of Symbols in Labeling—Glossary To Support the Use of Symbols in Labeling

OMB Control Number 0910–0740—Extension

In the **Federal Register** of June 15, 2016 (81 FR 38911), FDA issued a final rule revising medical device and certain biological product labeling regulations by explicitly allowing for the optional use in medical device labeling of stand-alone symbols established in a Standard Development Organization (SDO)-developed standard. In particular, FDA will allow the use of stand-alone graphical representations of information, or symbols, in the labeling for the medical devices, if the symbols are established in a standard developed by an SDO as long as: (1) The standard is recognized by FDA under its authority under section 514(c) of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 360d(c)) and the symbol is used according to the specifications for use of the symbol set forth in FDA's section 514(c) recognition, or alternatively, (2) if the symbol is not included in a standard recognized by FDA under section 514(c) of the FD&C Act or the symbol is in a standard recognized by FDA but is not used according to the specifications for use of the symbol set out in the FDA section 514(c) recognition, the device manufacturer otherwise determines that the symbol is likely to be read and understood by the ordinary individual under customary conditions of purchase and use and uses the symbol according to the specifications for use of the symbol set forth in the SDO-developed standard. In addition, in either case, the symbol must be explained in a written or electronic symbols glossary that is included in the labeling for the medical device. Furthermore, the labeling on or within the package containing the device must bear a prominent and conspicuous statement identifying the location of the glossary that is written in English or, in the case of articles distributed solely in Puerto Rico or in a Territory where the predominant language is one other than English, the predominant language may be used. The use of such symbols must also comply with other applicable labeling requirements of the FD&C Act, such as section 502(a) and (f) (21 U.S.C. 352(a) and (f)).

The respondents for this collection of information are domestic and foreign device manufacturers who plan to use stand-alone symbols on the labels and/or labeling for their devices marketed in the United States.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

Activity	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
Glossary	3,000	1	3,000	1	3,000

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

TABLE 2—ESTIMATED ANNUAL THIRD-PARTY DISCLOSURE BURDEN [1]

Activity	Number of respondents	Number of disclosures per respondent	Total annual disclosures	Average burden per response	Total hours
Glossary	3,000	1	3,000	4	12,000

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

The estimated burden is based on the data in a similar collection for recommended glossary and educational outreach approved under OMB control number 0910–0553 (''Use of Symbols on Labels and in Labeling of In Vitro Diagnostic Devices Intended for Professional Use''). As such, the PRA also covers the requirements of the final rule to submit the symbols glossary to FDA in otherwise required submissions during the premarket review process and to disclose it to third parties in otherwise required device labeling, which means adding to such submission or labeling a compiled listing of each SDO-established symbol used in the labeling for the device; the title and designation number of the SDO-developed standard containing the symbol; and the title of the symbol and its reference number, if any, in the standard; and the meaning or explanatory text for the symbol as provided in the FDA recognition or, if FDA has not recognized the standard or portion of the standard in which the symbol is located or the symbol is used not in accordance with the specifications for use of the symbol set out in the FDA section 514(c) recognition, the explanatory text as provided in the standard.

Based on a review of the information collection since our last request for OMB approval, we have made no adjustments to our burden estimate.

Dated: March 14, 2019.

Lowell J. Schiller,

Acting Associate Commissioner for Policy.

[FR Doc. 2019–05133 Filed 3–18–19; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Notice of Supplemental Award to the Association of State Territorial Public Health Nutrition Directors for the Children's Healthy Weight Collaborative Improvement and Innovation Cooperative Agreement

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: HRSA announces the award of a supplement in the amount of $300,000 for the Children's Healthy Weight Collaborative Improvement and Innovation (CoIIN) cooperative agreement. The supplement will permit the Association of State Territorial Public Health Nutrition Directors, the cooperative agreement recipient, during the period of September 1, 2019–August 31, 2020, to collect and analyze additional data from state teams and conduct a robust evaluation of their collective impact approach to prevent childhood obesity.

FOR FURTHER INFORMATION CONTACT: Meredith Morrissette, Division of Maternal and Child Health Workforce Development, Maternal and Child Health Bureau, HRSA, 5600 Fishers Lane, Rockville, Maryland 20852, Phone: (301) 443–6392, Email: *mmorrissette@hrsa.gov.*

SUPPLEMENTARY INFORMATION:

Intended Recipient of Award: Association of State and Territorial Public Health Nutrition Directors.

Amount of the Non-Competitive Award: $300,000.

Period of Supplemental Funding: 9/1/2019–08/31/2020.

CFDA Number: 93.110.

Authority: Social Security Act, Title V, § 501(a)(2) (42 U.S.C. 701(a)(2)).

Justification: The purpose of the Children's Healthy Weight CoIIN is to increase the proportion of children and young adults ages birth to 21 years who fall within a healthy weight range by supporting states to adopt evidence-based or evidence-informed policies and practices related to nutrition, physical activity, and breastfeeding to help states address the National Performance Measures and National Outcome Measure related to healthy weight. To support states, the Children's Healthy Weight CoIIN has established state-based teams to engage in collaborative learning and test evidence-based strategies; the recipient currently supports 12 state teams, across 13 unique states. State teamwork addresses identified state Title V priorities while supporting underserved communities, including communities at higher risk for childhood obesity. HRSA is awarding these funds as a supplement to the previous award, for the collection of additional data from states and a robust evaluation of their approach to prevent childhood obesity. The supplement of an additional year of funding will allow the recipient to collect and analyze data on state projects that will be implemented this year and evaluate the collective impact of the Children's Healthy Weight CoIIN on maternal and child health outcomes, helping to identify the most effective ways for HRSA to address childhood obesity and inform future activities related to nutrition and obesity.

Grantee/Organization name	Grant Number	State	FY 2019 Authorized funding level	FY 2019 Estimated supplemental funding
Association of State and Territorial Public Health Nutrition Directors	U7NMC30388	PA	$300,000	$300,000

Dated: March 13, 2019.

George Sigounas,

Administrator.

[FR Doc. 2019–05044 Filed 3–18–19; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Notice of Single Source Award Based on Non-Statutory Earmark to the Delta Region Community Health Systems Development Program

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services.

ACTION: Notice.

SUMMARY: The purpose of the Delta Region Community Health Systems Development program is to support collaboration with and input from the Delta Regional Authority to develop a pilot program to help underserved rural communities in the Delta region identify and better address their health care needs and to help small rural hospitals improve their financial and operational performance. The Federal Office of Rural Health Policy (FORHP), Fiscal Year (FY) 2019 appropriations increased the funding line that supports the Delta Region Community Health Systems Development program by $4,000,000. This increases the overall FY 2019 award for the Delta program from $4,000,000 to $8,000,000. The current award recipient has a need for additional funds to support activities performed under the scope of this program. The current award recipient will use a multipronged approach to deliver phased-in technical assistance (TA), in an effort to provide intensive assistance to all eight Delta Region communities.

ADDRESSES: Further information on the Delta Region Community Health Systems Development Program is available at: *https://www.hrsa.gov/ruralhealth/programopportunities/fundingopportunities/?id=8d869eff-0bca-4703-a821-88a9f0433b73.*

FOR FURTHER INFORMATION CONTACT: Rachel Moscato, Program Coordinator, Delta Region Community Health Systems Development, FORHP, HRSA, *RMoscato@hrsa.gov,* (301) 443–0385.

SUPPLEMENTARY INFORMATION:

Background

The Delta Region Community Health Systems Development program is authorized by Section 711(b) of the Social Security Act, (42 U.S.C. 912 (b)), as amended.

The Delta Region Community Health Systems Development program was announced under HRSA Funding Opportunity Announcement Number HRSA–17–117. In FY 2017, HRSA funded this program at up to $2,000,000 per year, to one awardee, the Rural Health Resource Center, for a period of performance of up-to three years. In FY 2018, the House Report 115–244 and Senate Report 115–150 for Division H of the Consolidated Appropriations Act of 2018 (Pub. L. 115–141) provided an additional $2,000,000 in funding to the

Delta program line. This resulted in an increase in appropriations to $4,000,000 per year in FY 2018.

The FY 2019, House Report 115–244 and Senate Report 115–150 for Division H of the Consolidated Appropriations Act of 2019 (Pub. L. 115–141) provided an additional $4,000,000 in funding to the Delta program line. For FY 2019, HRSA will increase the maximum funding per year for the Delta Region Community Health Systems Development to $8,000,000 per year for one award recipient. This program started on September 30, 2017, and ends on September 29, 2020.

Conclusion

HRSA believes that the current award recipient needs a higher level of funding to better assist small rural hospitals improve their financial and operational performance. In addition, the current award recipient will be expected to develop and implement a multipronged approach to deliver phased-in TA in an effort to provide intensive assistance to all eight Delta Region communities.

Dated: March 13, 2019.

George Sigounas,

Administrator.

[FR Doc. 2019–05045 Filed 3–18–19; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Neurological Disorders and Stroke Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel; Review of Udall Center for Parkinson's Disease Research.

Date: April 2–3, 2019.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Residence Inn Bethesda, 7335 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Jimok Kim, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Activities, NINDS/NIH/DHHS, NSC, 6001 Executive Blvd., Suite 3226, MSC 9529, Bethesda, MD 20892–9529, (301) 496–9223, *Jimok.kim@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: National Institute of Neurological Disorders and Stroke Special Emphasis Panel EPPIC Net: Data management Center Reviews.

Date: April 15, 2019.

Time: 08:30 a.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hotel Palomar, 2121 P Street NW, Washington, DC 200037.

Contact Person: Marilyn Moore-Hoon, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Activities, NINDS/NIH/DHHS, NSC, 6001 Executive Blvd., Suite 3205, MSC 9529, Bethesda, MD 20892–9529, (301) 827–9087, *mooremar@mail.nih.gov.*

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel; EPPIC Net Coordinating Center and Specialized Centers (Hubs) Reviews.

Date: April 15–16, 2019.

Time: 01:30 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hotel Palomar, 2121 P Street NW, Washington, DC 200037.

Contact Person: Marilyn Moore-Hoon, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Activities, NINDS/NIH/DHHS, NSC, 6001 Executive Blvd., Suite 3205, MSC 9529, Bethesda, MD 20892–9529, (301) 827–9087, *mooremar@mail.nih.gov.*

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel; 2019 NINDS LRP Review.

Date: April 30, 2019.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate loan Repayment Program.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852.

Contact Person: Ernest Lyons, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Activities, NINDS/NIH/DHHS, NSC, 6001 Executive Blvd., Suite 3208, MSC 9529, Bethesda, MD 20892–9529, (301)496–4056, *Lyonse@ninds.nih.gov.*

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel; NIH Blueprint Program for Enhancing Neuroscience Diversity through Undergraduate Research Education Experiences (R25).

Date: June 3, 2019.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda North Marriott Hotel & Conference Center, 5701 Marinelli Road, Bethesda, MD 20852.

Contact Person: Deanna Lynn Adkins, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Activities, NINDS/NIH/DHHS, NSC, 6001 Executive Blvd., Bethesda, MD 20892–9529, (301) 496–9223, *deanna.adkins@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.853, Clinical Research Related to Neurological Disorders; 93.854, Biological Basis Research in the Neurosciences, National Institutes of Health, HHS)

Dated: March 13, 2019.

Sylvia L. Neal,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2019–05063 Filed 3–18–19; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel, March 13, 2019, 11:30 a.m. to March 13, 2019, 3:30 p.m., National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD, 20892 which was published in the **Federal Register** on February 11, 2019, 84 FR 3202.

This meeting notice is being amended to change the meeting date from March 13, 2019 to April 2, 2019. The meeting is closed to the public.

Dated: March 13, 2019.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2019–05066 Filed 3–18–19; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Submission for OMB Review; 30-Day Comment Request; National Children's Study (NCS) Vanguard Data and Sample Archive and Access System (Eunice Kennedy Shriver National Institute of Child Health and Human Development)

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the National Institutes of Health (NIH) has submitted to the Office of Management and Budget (OMB) a request for review and approval of the information collection listed below.

DATES: Comments regarding this information collection are best assured of having their full effect if received within 30-days of the date of this publication.

ADDRESSES: Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the: Office of Management and Budget, Office of Regulatory Affairs, *OIRA_submission@omb.eop.gov* or by fax to 202–395–6974, Attention: Desk Officer for NIH.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, contact: Jack Moye, Jr., MD, Bldg. 6710B, Rm. 2130 MSC 7002, 9000 Rockville Pike, Bethesda, MD 20892–7002, or call non-toll-free number (301) 594–8624 or Email your request, including your address to: *NCSArchive@s-3.net.*

SUPPLEMENTARY INFORMATION: This proposed information collection was previously published in the **Federal Register** on November 8, 2018, page 55905 (83 FR 55905) and allowed 60 days for public comment. No public comments were received. The purpose of this notice is to allow an additional 30 days for public comment.

The Eunice Kennedy Shriver National Institute of Child Health and Human Development (NICHD), National Institutes of Health, may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

In compliance with Section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the National Institutes of Health (NIH) has submitted to the Office of Management and Budget (OMB) a request for review and approval of the information collection listed below.

Proposed Collection: National Children's Study (NCS) Vanguard Data and Sample Archive and Access System, 0925–NEW exp. date xx/xx/xxxx, Eunice Kennedy Shriver National Institute of Child Health and Human Development (NICHD), National Institutes of Health (NIH).

Need and Use of Information Collection: This submission is being changed from a generic information collection request (0925–0730 exp. date 2/28/2019) to a NEW information collection request. NICHD requires institutional and investigator contact information from users of the NCS Data and Sample Archive and Access System (NCS Archive). This information collected from potential data users is necessary to fulfill the requirements of their proposed research projects, ensure compliance with Department of Health and Human Services regulations for the protection of human subjects in research (45 CFR 46) and the Common Rule (45 CFR 46 Subpart A), and to document, track, and monitor the use of the NCS Archive, which provides opportunities for qualified researchers to use data and samples collected by the NCS Vanguard phase, for approved research projects. The information in addition will help NIH better understand the use of archived data and samples by the research community. There is no plan to publish the data collected under this request other than to post on the NCS Archive website the titles of approved research projects together with project investigators' institutional affiliations. The data otherwise are for internal monitoring purposes only, to assess the archive resource requirements and for quality improvement.

OMB approval is requested for 3 years. There are no costs to respondents other than their time. The total estimated annualized burden hours are 68.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Form	Number of respondents	Frequency of response	Average time per response (hours)	Total annual burden hours
Research scientists	NCS Vanguard Data User Agreement	150	1	10/60	25
Research scientists	NCS Vanguard Data Request Form	50	1	20/60	17
Research scientists	NCS Vanguard Data and Sample Request Form	25	1	30/60	13
Research scientists	Research Materials Distribution Agreement	75	1	10/60	13
Total		300	300		68

Dated: March 11, 2019.

Jennifer M. Guimond,

Project Clearance Liaison, Eunice Kennedy Shriver National Institute of Child Health and Human Development, National Institutes of Health.

[FR Doc. 2019–05101 Filed 3–18–19; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Cancer Institute Board of Scientific Advisors, March 25, 2019, 8:00 a.m. to March 26, 2019, 12:00 p.m., National Cancer Institute Shady Grove, Shady Grove, 9609 Medical Center Drive, Rockville, MD, 20850 which was published in the **Federal Register** on February 11, 2019, 84 FR 3200.

This meeting notice is amended to change from a two-day meeting to a one-day meeting. The meeting will now be held on March 25, 2019 from 9:00 a.m. to 5:30 p.m. The meeting is open to the public.

Dated: March 13, 2019.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2019–05064 Filed 3–18–19; 8:45 am]

BILLING CODE 4140–01–P

ADVISORY COUNCIL ON HISTORIC PRESERVATION

Notice of Advisory Council on Historic Preservation Quarterly Business Meeting

AGENCY: Advisory Council on Historic Preservation.

ACTION: Notice of Advisory Council on Historic Preservation quarterly business meeting.

SUMMARY: Notice is hereby given that the Advisory Council on Historic Preservation (ACHP) will hold its next quarterly meeting on Thursday, April 4, 2019. The meeting will be held in Room SR325 at the Russell Senate Office Building at Constitution and Delaware Avenues NE, Washington, DC, starting at 8:30 a.m.

DATES: The quarterly meeting will take place on Thursday, April 4, 2019 starting at 8:30 a.m.

ADDRESSES: The meeting will be held in Room SR325 at the Russell Senate Office Building at Constitution and Delaware Avenues NE, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Tanya DeVonish, 202–517–0205, *tdevonish@achp.gov.*

SUPPLEMENTARY INFORMATION: The Advisory Council on Historic Preservation (ACHP) is an independent federal agency that promotes the preservation, enhancement, and sustainable use of our nation's diverse historic resources, and advises the President and the Congress on national historic preservation policy. The goal of the National Historic Preservation Act (NHPA), which established the ACHP in 1966, is to have federal agencies act as responsible stewards of our nation's resources when their actions affect historic properties. The ACHP is the only entity with the legal responsibility to encourage federal agencies to factor historic preservation into their decision making. For more information on the ACHP, please visit our website at *www.achp.gov.*

The agenda for the upcoming quarterly meeting of the ACHP is the following:

I. Chairman's Welcome
II. Transition to Full-Time ACHP Chair
  A. Transition Process
  B. Strategic Plan Development
III. Section 106 Issues
  A. Digital Information Task Force Proceedings
  B. Reflections on Development of Chairman's Comment Letter on ''Growler'' Case
  C. National Park Service Proposed Rule on National Register Nominations
IV. Historic Preservation Policy and Programs
  A. White House Opportunity and Revitalization Council and the ACHP
  B. Traditional Knowledge and the National Historic Preservation Program
  C. Section 106 Success Stories: Future Directions
V. Committee Reports
VI. New Business
VII. Adjourn

The meetings of the ACHP are open to the public. If you need special accommodations due to a disability, please contact Tanya DeVonish, 202–517–0205 or *tdevonish@achp.gov,* at least seven (7) days prior to the meeting.

Authority: 54 U.S.C. 304102.

Dated: March 13, 2019.

Javier E. Marques,

General Counsel.

[FR Doc. 2019–05071 Filed 3–18–19; 8:45 am]

BILLING CODE 4310–K6–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2019–0002; Internal Agency Docket No. FEMA–B–1913]

Changes in Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice lists communities where the addition or modification of Base Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, or the regulatory floodway (hereinafter referred to as flood hazard determinations), as shown on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports, prepared by the Federal Emergency Management Agency (FEMA) for each community, is appropriate because of new scientific or technical data. The FIRM, and where applicable, portions of the FIS report, have been revised to reflect these flood hazard determinations through issuance of a Letter of Map Revision (LOMR), in accordance with Federal Regulations. The LOMR will be used by insurance agents and others to calculate appropriate flood insurance premium rates for new buildings and the contents of those buildings. For rating purposes, the currently effective community number is shown in the table below and must be used for all new policies and renewals.

DATES: These flood hazard determinations will be finalized on the dates listed in the table below and revise the FIRM panels and FIS report in effect prior to this determination for the listed communities.

From the date of the second publication of notification of these changes in a newspaper of local circulation, any person has 90 days in which to request through the community that the Deputy Associate Administrator for Insurance and Mitigation reconsider the changes. The flood hazard determination information may be changed during the 90-day period.

ADDRESSES: The affected communities are listed in the table below. Revised flood hazard information for each community is available for inspection at both the online location and the respective community map repository address listed in the table below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *https://msc.fema.gov* for comparison.

Submit comments and/or appeals to the Chief Executive Officer of the community as listed in the table below.

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 specific flood hazard determinations are not described for each community in this notice. However, the online location and local community map repository address where the flood hazard determination information is available for inspection is provided.

Any request for reconsideration of flood hazard determinations must be submitted to the Chief Executive Officer of the community as listed in the table below.

The modifications are made pursuant to section 201 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.

The FIRM and FIS report are the basis of the floodplain management measures that the 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 National Flood Insurance Program (NFIP).

These flood hazard determinations, 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. The flood hazard determinations are in accordance with 44 CFR 65.4.

The affected communities are listed in the following table. Flood hazard determination information for each community is available for inspection at both the online location and the respective community map repository address listed in the table below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *https://msc.fema.gov* for comparison.

(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	Online location of letter of map revision	Date of modification	Community No.
Arizona:						
Maricopa	City of Phoenix (18–09–0732P).	The Honorable Thelda Williams, Mayor, City of Phoenix, City Hall, 200 West Washington Street, Phoenix, AZ 85003.	Street Transportation Department, 200 West Washington Street, 5th Floor, Phoenix, AZ 85003.	*https://msc.fema.gov/portal/advanceSearch.*	Jun. 14, 2019	040051
Maricopa	City of Scottsdale (18–09–0732P).	The Honorable W.J. ''Jim'' Lane, Mayor, City of Scottsdale, 3939 North Drinkwater Boulevard, Scottsdale, AZ 85251.	Planning Records, 7447 East Indian School Road, Suite 100, Scottsdale, AZ 85251.	*https://msc.fema.gov/portal/advanceSearch.*	Jun. 14, 2019	045012
Pinal	Unincorporated Areas of Pinal County (18–09–1787P).	The Honorable Todd House, Chairman, Board of Supervisors, Pinal County, P.O. Box 827, Florence, AZ 85132.	Pinal County Engineering Division, 31 North Pinal Street Building F, Florence, AZ 85132.	*https://msc.fema.gov/portal/advanceSearch.*	Jun. 14, 2019	040077
Yavapai	Town of Chino Valley (18–09–2295P).	The Honorable Darryl L. Croft, Mayor, Town of Chino Valley, Town Hall, 202 North State Route 89, Chino Valley, AZ 86323.	Development Services Department, 1982 Voss Drive, Chino Valley, AZ 86323.	*https://msc.fema.gov/portal/advanceSearch.*	Jun. 14, 2019	040094
California:						
Kings	UnincorporatedAreas of Kings County (18–09–1578P).	The Honorable Richard Valle, Chairman, Board of Supervisors, Kings County, 1400 West Lacey Boulevard, Hanford, CA 93230.	Kings County Community Development Agency, 1400 West Lacey Boulevard, Building 6, Hanford, CA 93230.	*https://msc.fema.gov/portal/advanceSearch.*	Jun. 17 2019	060086
Los Angeles	Unincorporated Areas of Los Angeles County (18–09–1767P).	The Honorable Mark Ridley-Thomas, Chairman, Board of Supervisors, Los Angeles County, 500 West Temple Street, Room 358, Los Angeles, CA 90012.	Los Angeles County, Public Works Headquarters, Watershed Management Division, 900 South Fremont Avenue, Alhambra, CA 91803.	*https://msc.fema.gov/portal/advanceSearch.*	Jun. 13, 2019	065043
Riverside	City of Beaumont (18–09–1668P).	The Honorable Nancy Carroll, Mayor, City of Beaumont, 550 East 6th Street, Beaumont, CA 92223.	Civic and Community Center, 550 East 6th Street, Beamont, CA 92223.	*https://msc.fema.gov/portal/advanceSearch.*	Jun. 12, 2019	060247
San Diego	Unincorporated Areas of San Diego County (18–09–1141P).	The Honorable Kristin Gaspar, Chair, Board of Supervisors, San Diego County, 1600 Pacific Highway, Room 335, San Diego, CA 92101.	San Diego County, Flood Control District, Department of Public Works, 5510 Overland Avenue, Suite 410, San Diego, CA 92123.	*https://msc.fema.gov/portal/advanceSearch.*	Jun. 11, 2019	060284
Trinity	Unincorporated Areas of Trinity County (18–09–1648P).	The Honorable Keith Groves, Chairman, Board of Supervisors, Trinity County, 11 Court Street, Room 230, Weaverville, CA 96093.	Trinity County Planning Department, 61 Airport Road, Weaverville, CA 96093.	*https://msc.fema.gov/portal/advanceSearch.*	Jun. 13, 2019	060401
Florida: Bay	Unincorporated Areas of Bay County (18–04–5961P).	Mr. Robert Majka, Jr., County Manager, Bay County, 840 West 11th Street, Panama City, FL 32401.	Bay County Planning and Zoning, 707 Jenks Avenue, Suite B, Panama City, FL 32401.	*https://msc.fema.gov/portal/advanceSearch.*	Jun. 14, 2019	120004
Illinois:						

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of letter of map revision	Date of modification	Community No.
Jackson	Unincorporated Areas of Jackson County (18–05–4175P).	The Honorable John S. Rendleman, Chairman, Jackson County Board, Jackson County Courthouse, 1001 Walnut Street, Murphysboro, IL 62966.	Jackson County Assessment Office, 20 South 10th Street, Murphysboro, IL 62966.	*https://msc.fema.gov/portal/advanceSearch.*	Jun. 12, 2019	170927
Jackson	Village of Dowell (18–05–4175P).	The Honorable Charles D. Horn, Village President, Village of Dowell, P.O. Box 92, Dowell, IL 62927.	Village Hall, 213 Union Avenue, Dowell, IL 62927.	*https://msc.fema.gov/portal/advanceSearch.*	Jun. 12, 2019	170875
Indiana: Marion	City of Indianapolis (19–05–0008P)	The Honorable Joe Hogsett, Mayor, City of Indianapolis, City-County Building, 200 East Washington Street, Suite 2501, Indianapolis, IN 46204.	City-County Building, 200 East Washington Street, Suite 1842, Indianapolis, IN 46204.	*https://msc.fema.gov/portal/advanceSearch.*	Jun. 21, 2019	180159
Kansas: Johnson	City of Lenexa (18–07–1738P).	The Honorable Michael Boehm, Mayor, City of Lenexa, 8522 Caenen Lake Court Lenexa, KS 66215.	City Hall, 12350 West 87th Street Parkway, Lenexa, KS 66215.	*https://msc.fema.gov/portal/advanceSearch.*	May 15, 2019	200168
Michigan: Oakland	City of Rochester (18–05–2400P).	The Honorable Rob Ray Mayor, City of Rochester, Rochester City Hall, 400 6th Street, Rochester, MI 48307.	City Hall, 400 6th Street, Rochester, MI 48307.	*https://msc.fema.gov/portal/advanceSearch.*	Jun. 14, 2019	260326
Missouri: Jackson	City of Lee's Summit (18–07–0912P).	The Honorable Bill Baird, Mayor, City of Lee's Summit, 220 Southeast Green Street, Lee's Summit, MO 64063.	Mayor's Office, 207 Southwest Market Street, Lee's Summit, MO 64063.	*https://msc.fema.gov/portal/advanceSearch.*	Jun. 13, 2019	290174
Nebraska:						
Douglas	City of Omaha (18–07–0801P).	The Honorable Jean Stothert, Mayor, City of Omaha, Office of The Mayor, 1819 Farnam Street, Suite 300, Omaha, NE 68183.	Civic Center, 1819 Farnam Street, Omaha, NE 68183.	*https://msc.fema.gov/portal/advanceSearch.*	Jun. 20, 2019	315274
Lancaster	City of Waverly (18–07–0490P).	The Honorable Mike Werner, Mayor, City of Waverly, City Hall, P.O. Box 427, Waverly, NE 68462.	City Hall, 14130 Lancashire, Waverly, NE 68462.	*https://msc.fema.gov/portal/advanceSearch.*	Apr. 26, 2019	310140
Nevada: Clark	City of Henderson (18–09–2045P).	The Honorable Debra March, Mayor, City of Henderson, 240 South Water Street, Henderson, NV 89015.	Public Works Department, 240 South Water Street, Henderson, NV 89015.	*https://msc.fema.gov/portal/advanceSearch.*	Jun. 11, 2019	320005
Ohio:						
Fairfield	City of Lancaster (18–05–6407P).	The Honorable David S. Smith, Mayor, City of Lancaster, 104 East Main Street, Room 101, Lancaster, OH 43130.	Municipal Building, 121 East Chestnut Street, Suite 100, Lancaster, OH 43130.	*https://msc.fema.gov/portal/advanceSearch.*	Jun. 17, 2019	390161
Lake	Unincorporated Areas of Lake County (18–05–2719P).	Mr. John R. Hamercheck, Commissioner, Lake County, 105 Main Street, 4th Floor, Painesville, OH 44077.	Lake County Engineer's Office, 550 Blackbrook Road, Painesville, OH 44077.	*https://msc.fema.gov/portal/advanceSearch.*	Jun. 19, 2019	390771
South Carolina: Richland.	Unincorporated Areas of Richland County (18–04–5530P).	The Honorable Joyce Dickerson, Chair, Richland County Council, 2020 Hampton Street, Columbia, SC 29201	Richland County, Department of Public Works, 400 Powell Street, Columbia, SC 29203.	*https://msc.fema.gov/portal/advanceSearch.*	Jun. 17, 2019	450170
Wisconsin: Sheboygan.	Unincorporated Areas of Sheboygan County (19–05–0048P).	Mr. Roger L. Te Stroete, County Board Supervisor, Sheboygan County, 508 New York Avenue, 3rd Floor, Room 311, Sheboygan, WI 53081.	Sheboygan County, Administration Building, 508 New York Avenue, Sheboygan, WI 53081.	*https://msc.fema.gov/portal/advanceSearch.*	May 14, 2019	550424

[FR Doc. 2019–05105 Filed 3–18–19; 8:45 am]
BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2019–0002; Internal Agency Docket No. FEMA–B–1916]

Changes in Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice lists communities where the addition or modification of Base Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, or the regulatory floodway (hereinafter referred to as flood hazard determinations), as shown on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports, prepared by the Federal Emergency Management Agency (FEMA) for each community, is appropriate because of new scientific or technical data. The FIRM, and where applicable, portions of the FIS report, have been revised to reflect these flood hazard determinations through issuance of a Letter of Map Revision (LOMR), in accordance with Federal Regulations. The LOMR will be used by insurance agents and others to calculate appropriate flood insurance premium rates for new buildings and the contents of those buildings. For rating purposes, the currently effective community number is shown in the table below and must be used for all new policies and renewals.

DATES: These flood hazard determinations will be finalized on the dates listed in the table below and revise the FIRM panels and FIS report in effect prior to this determination for the listed communities.

From the date of the second publication of notification of these changes in a newspaper of local circulation, any person has 90 days in which to request through the community that the Deputy Associate Administrator for Insurance and Mitigation reconsider the changes. The flood hazard determination information may be changed during the 90-day period.

ADDRESSES: The affected communities are listed in the table below. Revised flood hazard information for each community is available for inspection at both the online location and the respective community map repository address listed in the table below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *https://msc.fema.gov* for comparison.

Submit comments and/or appeals to the Chief Executive Officer of the community as listed in the table below.

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 specific flood hazard determinations are not described for each community in this notice. However, the online location and local community map repository address where the flood hazard determination information is available for inspection is provided.

Any request for reconsideration of flood hazard determinations must be submitted to the Chief Executive Officer of the community as listed in the table below.

The modifications are made pursuant to section 201 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.

The FIRM and FIS report are the basis of the floodplain management measures that the 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 National Flood Insurance Program (NFIP).

These flood hazard determinations, 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. The flood hazard determinations are in accordance with 44 CFR 65.4.

The affected communities are listed in the following table. Flood hazard determination information for each community is available for inspection at both the online location and the respective community map repository address listed in the table below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *https://msc.fema.gov* for comparison.

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Michael M. Grimm,

Assistant Administrator for Risk Managment, Department of Homeland Security, Federal Emergency Management Agency.

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of letter of map revision	Date of modification	Community No.
Alabama:						
Shelby.	City of Pelham (19–04–1376X).	The Honorable Gary W. Waters, Mayor, City of Pelham, 3162 Pelham Parkway, Pelham, AL 35124.	City Hall, 3162 Pelham Parkway, Pelham, AL 35124.	*https://msc.fema.gov/portal/advanceSearch.*	May 6, 2019.	010193
Arkansas:						
Pulaski	City of North Little Rock (18–06–1862P).	The Honorable Joe Smith, Mayor, City of North Little Rock, 300 Main Street, North Little Rock, AR 72119.	City Hall, 500 West 13th Street, North Little Rock, AR 72114.	*https://msc.fema.gov/portal/advanceSearch.*	Jun. 11, 2019.	050182

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of letter of map revision	Date of modification	Community No.
Pulaski	City of Maumelle (18–06–1862P).	The Honorable Michael Watson, Mayor, City of Maumelle, 550 Edgewood Drive, Suite 590, Maumelle, AR 72113.	City Hall, 550 Edgewood Drive, Suite 590, Maumelle, AR 72113.	*https://msc.fema.gov/portal/advanceSearch.*	Jun. 11, 2019.	050577
California:						
Santa Barbara.	City of Santa Barbara (18–09–1502P).	Mr. Paul Casey, City of Santa Barbara Administrator, P.O. Box 1990, Santa Barbara, CA 93102.	Community Development Department, Building and Safety Division, 630 Garden Street, Santa Barbara, CA 93101.	*https://msc.fema.gov/portal/advanceSearch.*	Jun. 21, 2019.	060335
Santa Barbara.	City of Santa Barbara (18–09–1503P).	Mr. Paul Casey, City of Santa Barbara Administrator, P.O. Box 1990, Santa Barbara, CA 93102.	Community Development Department, Building and Safety Division, 630 Garden Street, Santa Barbara, CA 93101.	*https://msc.fema.gov/portal/advanceSearch.*	Jun. 24, 2019.	060335
Colorado: Adams.	City of Thornton (18–08–1093P).	The Honorable Heidi Williams, Mayor, City of Thornton, 9500 Civic Center Drive, Thornton, CO 80229.	City Hall, 9500 Civic Center Drive, Thornton, CO 80229.	*https://msc.fema.gov/portal/advanceSearch.*	Jun 14, 2019.	080007
Florida:						
Lee	City of Bonita Springs (18–04–6716P).	The Honorable Peter Simmons, Mayor, City of Bonita Springs, 9101 Bonita Beach Road, Bonita Springs, FL 34135.	Community Development Department, 9220 Bonita Beach Road, Suite 111, Bonita Springs, FL 34135.	*https://msc.fema.gov/portal/advanceSearch.*	Jun 14, 2019.	120680
Lee	Town of Fort Myers Beach (18–04–6934P).	The Honorable Tracy Gore, Mayor, Town of Fort Myers Beach, 2525 Estero Boulevard, Fort Myers Beach, FL 33931.	Community Development Department, 2525 Estero Boulevard, Fort Myers Beach, FL 33931.	*https://msc.fema.gov/portal/advanceSearch.*	Jun 13, 2019.	120673
Manatee	City of Bradenton Beach (19–04–0245P).	The Honorable John Chappie, Mayor, City of Bradenton Beach, 107 Gulf Drive North, Bradenton Beach, FL 34217.	City Hall, 107 Gulf Drive North, Bradenton Beach, FL 34217.	*https://msc.fema.gov/portal/advanceSearch.*	Jun 11, 2019.	125091
Monroe	Unincorporated areas of Monroe County (19–04–0251P).	The Honorable Sylvia Murphy, Mayor, Monroe County Board of Commissioners, 102050 Overseas Highway, Suite 234, Key Largo, FL 33037.	Monroe County Building Department, 2798 Overseas Highway, Suite 300, Marathon, FL 33050.	*https://msc.fema.gov/portal/advanceSearch.*	Jun 11, 2019.	125129
Palm Beach	Unincorporated areas of Palm Beach County (19–04–0277P).	The Honorable Mack Bernard, Mayor, Palm Beach County Council, 301 North Olive Avenue, Suite 1201, West Palm Beach, FL 33401.	Palm Beach County Building Division, 2300 North Jog Road, West Palm Beach, FL 33411.	*https://msc.fema.gov/portal/advanceSearch.*	Jun 14, 2019.	120192
Polk	Unincorporated areas of Polk County (18–04–5489P).	The Honorable George Lindsey III, Chairman, Polk County Board of Commissioners, P.O. Box 9005, Drawer BC01, Bartow, FL 33831.	Polk County Land Development Division, 330 West Church Street, Bartow, FL 33830.	*https://msc.fema.gov/portal/advanceSearch.*	Jun 13, 2019.	120261
Seminole ...	City of Longwood (18–04–6273P).	The Honorable Ben Paris Mayor, City of Longwood, 175 West Warren Avenue, Longwood, FL 32750.	Community Development Department, 174 West Church Avenue, Longwood, FL 32750.	*https://msc.fema.gov/portal/advanceSearch.*	Jun 14, 2019.	120292

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of letter of map revision	Date of modification	Community No.
Maryland: Independent City.	City of Baltimore (18–03–2013P).	The Honorable Catherine E. Pugh, Mayor, City of Baltimore, 100 North Holliday Street, Baltimore, MD 21202.	Planning Department, 417 East Fayette Street, 8th Floor, Baltimore, MD 21202.	*https://msc.fema.gov/portal/advanceSearch.*	Jun 11, 2019.	240087
Massachusetts: Norfolk.	Town of Dedham (18–01–1423P).	Mr. James Kern, Manager, Town of Dedham, 26 Bryant Street, Dedham, MA 02026.	Public Works Department, 55 River Street, Dedham, MA 02026.	*https://msc.fema.gov/portal/advanceSearch.*	Jun 13, 2019.	250237
Montana:						
Fallon	City of Baker (18–08–0474P).	The Honorable JoDee Pratt, Mayor, City of Baker, P.O. Box 1512, Baker, MT 59313.	Planning Department, 10 West Fallon Avenue, Baker, MT 59313.	*https://msc.fema.gov/portal/advanceSearch.*	Jun 17, 2019.	300018
Fallon	Unincorporated areas of Fallon County (18–08–0474P).	The Honorable Steve Baldwin, Chairman, Fallon County Board of Commissioners, P.O. Box 846, Baker, MT 59313.	Fallon County Planning Department, 10 West Fallon Avenue, Baker, MT 59313.	*https://msc.fema.gov/portal/advanceSearch.*	Jun 17, 2019.	300149
Flathead	City of Whitefish (18–08–1047P).	The Honorable John Muhlfeld, Mayor, City of Whitefish, P.O. Box 158, Whitefish, MT 59937.	Planning and Building Department, 418 East 2nd Street, Whitefish, MT 59937.	*https://msc.fema.gov/portal/advanceSearch.*	Jun 13, 2019.	300026
Flathead	Unincorporated areas of Flathead County (18–08–1047P).	The Honorable Philip Mitchell, Chairman, Flathead County Board of Commissioners, 800 South Main Street, Kalispell, MT 59901.	Flathead County Planning and Zoning Department, 40 11th Street West, Kalispell, MT 59901.	*https://msc.fema.gov/portal/advanceSearch.*	Jun 13, 2019.	300023
North Carolina: Randolph.	Unincorporated areas of Randolph County (18–04–5146P).	The Honorable Darrell L. Frye, Chairman, Randolph County Board of Commissioners, 725 McDowell Road, Asheboro, NC 27205.	Randolph County Planning Department, 725 McDowell Road, Asheboro, NC 27205.	*https://msc.fema.gov/portal/advanceSearch.*	Jun. 6, 2019.	370195
Oklahoma: Cleveland.	City of Oklahoma City (18–06–3471P).	The Honorable David Holt, Mayor, City of Oklahoma City, 200 North Walker Avenue, 3rd Floor, Oklahoma City, OK 73102.	Public Works Department, 420 West Main Street, Suite 700, Oklahoma City, OK 73102.	*https://msc.fema.gov/portal/advanceSearch.*	Jun 13, 2019.	405378
Pennsylvania:						
Bucks	Township of Doylestown (18–03–1689P).	The Honorable Barbara N. Lyons, Chairman, Township of Doylestown Board of Supervisors, 425 Wells Road, Doylestown, PA 18901.	Township Hall, 425 Wells Road, Doylestown, PA 18901.	*https://msc.fema.gov/portal/advanceSearch.*	Jun 14, 2019.	420185
Bucks	Township of New Britain (18–03–1689P).	The Honorable A. James Scanzillo, Chairman, Township of New Britain Board of Supervisors, 207 Park Avenue, Chalfont, PA 18914.	Township Hall, 207 Park Avenue, Chalfont, PA 18914.	*https://msc.fema.gov/portal/advanceSearch.*	Jun 14, 2019.	420987

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of letter of map revision	Date of modification	Community No.
Luzerne	Township of Salem (18–03–1339P).	The Honorable Steven Fraind, Chairman, Township of Salem Board of Supervisors, 38 Bomboy Lane, Berwick, PA 18603.	Township Hall, 38 Bomboy Lane, Berwick, PA 18603.	*https://msc.fema.gov/portal/advanceSearch.*	Jun 21, 2019.	420625
South Carolina:						
Horry.	Unincorporated areas of Horry County (18–04–3918P).	The Honorable Mark Lazarus, Chairman, Horry County Council, P.O. Box 1236, Conway, SC 29528.	Horry County Department of Code Enforcement, 1301 2nd Avenue, Conway, SC 29526.	*https://msc.fema.gov/portal/advanceSearch.*	Jun 11, 2019.	450104
South Dakota:						
Lincoln	Town of Tea (18–08–1197P).	The Honorable John Lawler, Mayor, Town of Tea, P.O. Box 128, Tea, SD 57064.	Town Hall, 600 East 1st Street, Tea, SD 57064.	*https://msc.fema.gov/portal/advanceSearch.*	May 13, 2019.	460143
Lincoln	Unincorporated areas of Lincoln County (18–08–1197P).	The Honorable David Gillespie, Chairman, Lincoln County Board of Commissioners, 104 North Main Street, Canton, SD 57013.	Lincoln County GIS Department, 104 North Main Street, Canton, SD 57013.	*https://msc.fema.gov/portal/advanceSearch.*	May 13, 2019.	460277
Pennington	Unincorporated areas of Pennington County (18–08–0912P).	The Honorable Deb Hadcock, Chair, Pennington County Board of Commissioners, 130 Kansas City Street, Suite 100, Rapid City, SD 57701.	Pennington County Planning Department, 130 Kansas City Street, Suite 200, Rapid City, SD 57701.	*https://msc.fema.gov/portal/advanceSearch.*	Jun 17, 2019.	460064
Texas:						
Guadalupe	City of Cibolo (18–06–2757P).	The Honorable Stosh Boyle, Mayor, City of Cibolo, P.O. Box 826, Cibolo, TX 78108.	City Hall, 200 South Main Street, Cibolo, TX 78108.	*https://msc.fema.gov/portal/advanceSearch.*	Jun 14, 2019.	480267
Montgomery.	Unincorporated areas of Montgomery County (18–06–3313P).	The Honorable Craig B. Doyal, Montgomery County Judge, 501 North Thompson Street, Suite 401, Conroe, TX 77301.	Montgomery County Commissioners Office, 501 North Thompson Street, Suite 103, Conroe, TX 77301.	*https://msc.fema.gov/portal/advanceSearch.*	Jun 11, 2019.	480483
Tarrant	City of Fort Worth (18–06–2392P).	The Honorable Betsy Price, Mayor, City of Forth Worth, 200 Texas Street, Fort Worth, TX 76102.	Transportation and Public Works Department, 200 Texas Street, Fort Worth, TX 76102.	*https://msc.fema.gov/portal/advanceSearch.*	Jun 13, 2019.	480596
Tarrant	City of Fort Worth (18–06–3022P).	The Honorable Betsy Price, Mayor, City of Forth Worth, 200 Texas Street, Fort Worth, TX 76102.	Transportation and Public Works Department, 200 Texas Street, Fort Worth, TX 76102.	*https://msc.fema.gov/portal/advanceSearch.*	Jun 13, 2019.	480596
Tarrant	City of Fort Worth (18–06–3342P).	The Honorable Betsy Price, Mayor, City of Forth Worth, 200 Texas Street, Fort Worth, TX 76102.	Transportation and Public Works Department, 200 Texas Street, Fort Worth, TX 76102.	*https://msc.fema.gov/portal/advanceSearch.*	Jun 13, 2019.	480596
Utah:						
Salt Lake ...	City of Herriman (18–08–0560P).	The Honorable David Watts, Mayor, City of Herriman, 5355 West Herriman Main Street, Herriman, UT 84096.	City Hall, 13011 South Pioneer Street, Herriman, UT 84096.	*https://msc.fema.gov/portal/advanceSearch.*	Jun 10, 2019.	490252

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of letter of map revision	Date of modification	Community No.
Salt Lake ...	Unincorporated areas of Salt Lake County (18–08–0560P).	The Honorable Ben McAdams, Mayor, Salt Lake County, 2001 South State Street, Suite N2–100, Salt Lake City, UT 84190.	Salt Lake County Public Works Department, 2001 South State Street, Suite N3–100, Salt Lake City, UT 84190.	*https://msc.fema.gov/portal/advanceSearch.*	Jun 10, 2019.	490102
Virginia:						
Loudoun.	Unincorporated areas of Loudoun County (19–03–0018P).	The Honorable Phyllis J. Randall, Chair, Loudoun County Board of Supervisors, P.O. Box 7000, Leesburg, VA 20177.	Loudoun County Department of Building and Development, 1 Harrison Street, S.E., 3rd Floor, Leesburg, VA 20175.	*https://msc.fema.gov/portal/advanceSearch.*	Jun 17, 2019.	510090
West Virginia:						
Greenbriar	City of White Sulphur Springs (18–03–1881P).	The Honorable Bruce Bowling, Mayor, City of White Sulphur Springs, 589 Main Street West, White Sulphur Springs, WV 24986.	City Hall, 589 Main Street West, White Sulphur Springs, WV 24986.	*https://msc.fema.gov/portal/advanceSearch.*	Jun 17, 2019.	540045
Greenbrier	Unincorporated areas of Greenbrier County (18–03–1881P).	The Honorable Woody Hanna, President, Greenbrier County Commission, 912 Court Street North, Lewisburg, WV 24901.	Greenbrier County Planning Department, 912 Court Street North, Lewisburg, WV 24901.	*https://msc.fema.gov/portal/advanceSearch.*	Jun 17, 2019.	540040

[FR Doc. 2019–05106 Filed 3–18–19; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

[Docket No. DHS–2019–0002]

Science and Technology Collection of Qualitative Feedback

AGENCY: Science and Technology Directorate (S&T), Department of Homeland Security (DHS).

ACTION: 30-Day notice of information collection; new request for comment.

SUMMARY: S&T will submit the following Information Collection Request (ICR) to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection activity will garner qualitative customer and stakeholder feedback in an efficient, timely manner, in accordance with the Administration's commitment to improving service delivery.

DATES: Comments are encouraged and accepted until April 18, 2019.

ADDRESSES: Interested persons are invited to submit written comments on this proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the OMB Desk Officer, via electronic mail to *dhsdeskofficer@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: DHS/S&T/OCIO Program Manager: Mary Cantey, *Mary.K.Cantey@hq.dhs.gov* or 202–254–5367 (Not a toll free number).

SUPPLEMENTARY INFORMATION: The information collection activity will garner qualitative customer and stakeholder feedback in an efficient, timely manner, in accordance with the S&T's commitment to improving service delivery. By qualitative feedback we mean information that provides useful insights on perceptions and opinions, but are not statistical surveys that yield quantitative results that can be generalized to the population of study. This feedback will provide insights into customer or stakeholder perceptions, experiences and expectations, provide an early warning of issues with service, or focus attention on areas where communication, training or changes in operations might improve delivery of products or services. These collections will allow for ongoing, collaborative and actionable communications between S&T and its customers and stakeholders. It will also allow feedback to contribute directly to the improvement of S&T's program management. Feedback collected under this generic clearance will provide useful information, but it will not yield data that can be generalized to the overall population. This type of generic clearance for qualitative information will not be used for quantitative information collections that are designed to yield reliably actionable results, such as monitoring trends over time or documenting program performance. Such data uses require more rigorous designs that address: The target population to which generalizations will be made, the sampling frame, the sample design (including stratification and clustering), the precision requirements or power calculations that justify the proposed sample size, the expected response rate, methods for assessing potential nonresponse bias, the protocols for data collection, and any testing procedures that were or will be undertaken prior fielding the study. Depending on the degree of influence the results are likely to have, such collections may still be eligible for submission for other generic mechanisms that are designed to yield quantitative results. DHS, in accordance with the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.,* provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. DHS is soliciting comments on the proposed Information Collection Request (ICR) that is described below. DHS is especially interested in public comment

addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology? Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Science and Technology Collection of Qualitative Feedback.

Type of Review: New.

Affected Public: Individuals and Households, Businesses and Organizations, State, Local or Tribal Government.

Frequency of Collection: One per Request.

Estimated Time per Respondent: 30 minutes or under.

Number of Respondents: 215,100.

Total Burden Hours: 34,732.

Dated: February 14, 2019.

Rick Stevens,

Chief Information Officer, Science and Technology Directorate.

[FR Doc. 2019–05167 Filed 3–18–19; 8:45 am]

BILLING CODE 9110–9F–P

DEPARTMENT OF HOMELAND SECURITY

[Docket No. DHS–2019–0008]

Next Generation First Responder (NGFR)

AGENCY: Science and Technology Directorate, Department of Homeland Security.

ACTION: 30-Day notice of information collection; New request for comment.

SUMMARY: The Department of Homeland Security (DHS), Science and Technology Directorate (S&T) Next Generation First Responder (NGFR) program seeks to develop and integrate next-generation technologies by testing and evaluating first responder technologies during integration demonstration events. During these events, first responder participants use prototype technologies in a fictional scenario—such as a missing person case, an active shooter event, or a chemical spill—and are asked to share their feedback on how the technology worked in the context of their emergency response to the scenario, including whether the technologies made them more effective, efficient or safe.

The information collected during these events will help provide insight about how to improve technologies for first responders and will help DHS define whether or not the event was successful. Additionally, the feedback and evaluation DHS receives will be used in knowledge products that will then be distributed to other state and local first responder organizations.

DATES: Comments are encouraged and accepted until April 18, 2019.

ADDRESSES: Interested persons are invited to submit written comments on this proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the OMB Desk Officer, via electronic mail to *dhsdeskofficer@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: DHS/S&T/CIO Program Manager: Mary Cantey, *Mary.K.Cantey@hq.dhs.gov* or 202–254–5367 (Not a toll free number).

SUPPLEMENTARY INFORMATION: DHS, in accordance with the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.,* provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. DHS is soliciting comments on the proposed information collection request (ICR) that is described below. DHS is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology? Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Next Generation First Responder Technology Evaluation Survey.

Type of Review: New.

Respondents/Affected Public: Law Enforcement, Firefighters.

Frequency of Collection: Quarterly.

Average Burden per Response: 15 minutes.

Total Estimated Number of Annual Responses: 900.

Total Estimated Number of Annual Burden Hours: 225.

Dated: February 14, 2019.

Rick Stevens,

Chief Information Officer, Science and Technology Directorate.

[FR Doc. 2019–05166 Filed 3–18–19; 8:45 am]

BILLING CODE 9110–9F–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–6146–N–03]

Privacy Act of 1974; System of Records for the Evaluation of the Supportive Services Demonstration

AGENCY: Office of Policy Development and Research.

ACTION: Notice of a new System of Records.

SUMMARY: Pursuant to the Privacy Act of 1974, as amended, notice is hereby given that the Office of Policy Development and Research (PD&R), U.S. Department of Housing and Urban Development (HUD), provides public notice regarding its System of Records for the Evaluation of the Supportive Services Demonstration (SSD). The SSD is a three-year demonstration sponsored by HUD to test the impact of a new model of housing-based supportive services on the healthcare utilization and housing stability of low-income older adults. HUD's Office of Policy Development and Research contracted with Abt Associates Inc. (Abt) to evaluate the SSD. The evaluation entails matching administrative data already being collected on demonstration participants by HUD, the Centers for Medicare and Medicaid Services (CMS) in the Department of Health and Human Services (HHS), state Medicaid agencies in seven states, and The Lewin Group (the implementation contractor for the demonstration). The various administrative data sets will be matched to demonstration participants and linked using personally identifying information (PII) collected by HUD. The evaluation dataset that results from the administrative data matching will include PII and protected health information (PHI) and is the proposed system of records.

DATES: This notice will become effective April 18, 2019.

Comments Due Dates: April 18, 2019.

ADDRESSES: You may submit comments, identified by docket number and title, by one of the following methods: Interested persons are invited to submit comments regarding this notice to the Rules Docket Clerk, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street

SW, Room 10139, Washington, DC 20410. Comments may be filed electronically by accessing: *www.regulations.gov. Regulations.gov* provides clear instructions on how to submit a public comment on a rule. Communications should refer to the above docket number and title. Faxed comments are not accepted. A copy of each communication submitted will be available for public inspection and copying between 8 a.m. and 5 p.m. weekdays at the above address.

FOR FURTHER INFORMATION CONTACT: John Bravacos, Senior Agency Official for Privacy, at 451 7th Street SW, Room 10139; U.S. Department of Housing and Urban Development; Washington, DC 20410–0001; telephone number 202–708–3054 (this is not a toll-free number). Individuals who are hearing- or speech-impaired may access this telephone number via TTY by calling the Federal Relay Service at 800–877–8339 (this is a toll-free number).

SUPPLEMENTARY INFORMATION: The new System of Records will encompass administrative data assembled by HUD's contractor, Abt Associates Inc., for the Evaluation of the Supportive Services Demonstration, which is designed to assess the implementation and impact of a new approach to help low-income seniors in HUD-assisted multifamily developments successfully age in place. In January 2016, HUD solicited applications for the Supportive Services Demonstration for Elderly Households in HUD-Assisted Multifamily Housing. The Notice of Funding Availability (NOFA) offered grant funding to multifamily property owners to implement the Integrated Wellness in Supportive Housing (IWISH) model over a three-year period. A total of 124 HUD-assisted properties, housing approximately 13,000 elderly residents, are participating in the demonstration. These properties are located in seven states: California, Illinois, Maryland, Massachusetts, Michigan, New Jersey, and South Carolina.

The evaluation will collect qualitative information through questionnaires, interviews, and focus groups to assess the implementation of the demonstration. The data will not be store and retrieved using PII, and therefore will not be records in the system. The evaluation will also measure the impacts of the demonstration by obtaining pre-existing administrative data for residents of the 124 demonstration properties and matching those data to create a linked evaluation dataset. The data sources that will be part of the linked dataset and will be records in the system are:

- Data from HUD's Tenant Rental Assistance Certification System (TRACS) system. The TRACS data are available for all residents of the 124 properties and provides the PII used to retrieve information on demonstration participants from the other data sources.
- Medicare claims and enrollment data collected by CMS and made available for research through CMS's Research Data Assistance Center (ResDAC).
- Medicaid claims and enrollment data collected by the seven states in the study
- Self-reported demographic and health and social status information collected by The Lewin Group for demonstration participants who enroll in the Integrated Wellness in Supportive Housing (IWISH) pilot program. These data are collected via the Population Health Logistics (PHL) platform, which is covered by a separate SORN, ''HUD Supportive Services Demonstration/ Integrated Wellness in Supportive Housing: Privacy Act of 1974; System of Records,'' published in the **Federal Register** on February 15, 2018 (83 FR 6875).

The evaluation will use the PII contained in the TRACS data to link HUD administrative records for demonstration participants to Medicaid and Medicare claims data and select data from the PHL platform. The evaluation supports HUD's mission by fulfilling legislatively mandated requirements for evaluation and evaluating the effectiveness of the Supportive Services Demonstration. The demonstration and evaluation support HUD's mission of meeting the need for quality affordable rental homes and utilizing housing as a platform for improving quality of life.

The new notice states the name and location of the record system, the authority for and manner of its operations, the categories of individuals that it covers, the type of records that it contains, the sources of the information for the records, the routine uses made of the records, and the types of exemptions in place for the records. The notice also includes the business address of the HUD officials who will inform interested persons of how they may gain access to and/or request amendments to records pertaining to themselves.

Publication of this notice allows the Department to provide new information about its system of records notices in a clear and cohesive format. The new system of records will incorporate Federal privacy requirements and Department's policy requirements. The Privacy Act places on Federal agencies principal responsibility for compliance with its provisions, by requiring Federal agencies to safeguard an individual's records against an invasion of personal privacy; protect the records contained in an agency system of records from unauthorized disclosure; ensure that the records collected are relevant, necessary, current, and collected only for their intended use; and adequately safeguard the records to prevent misuse of such information. In addition, this notice demonstrates the Department's focus on industry best practices to protect the personal privacy of the individuals covered by this SORN.

Pursuant to the Privacy Act and the Office of Management and Budget (OMB) guidelines, a report of the system of records was submitted to OMB, the Senate Committee on Homeland Security and Governmental Affairs, and the House Committee on Oversight and Government Reform, as instructed by paragraph 7a of OMB Circular No. A–108, ''Federal Agency Responsibilities for Review, Reporting, and Publication under the Privacy Act,'' December 23, 2016.

SYSTEM NAME AND NUMBER:

Administrative Dataset for the Evaluation of HUD's Supportive Services Demonstration Evaluation.

SECURITY CLASSIFICATION:

No information in the system is classified.

SYSTEM LOCATION:

Abt Associates has headquarters at 6130 Executive Blvd., Rockville, MD 20852. Records are stored in Abt's Analytic Computing Environment (ACE 3), which meets NIST SP 800–53 Revision 4 FISMA Moderate Standards, and utilizes FedRAMP Moderate accredited services from Amazon as infrastructure. Amazon is located at 410 Terry Ave. N, Seattle, WA 98109. HUD's Office of Policy Development and Research, Program Evaluation Division, is located at 471 Seventh Street SW, Room 8120, Washington, DC 20410.

SYSTEM MANAGER(S):

Carol S. Star, Program Evaluation Division, Office of Policy Development and Research, U.S. Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410; telephone number 202–402–6139 (this is not a toll-free number).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sec. 501 and 502 of the Housing and Urban Development Act of 1970 (Pub. L. 91–609), 12 U.S.C. 1701z–1, 1701z–2.

PURPOSE(S) OF THE SYSTEM:

The purpose of the system is to allow the Department to study information gathered on Supportive Services Demonstration IWISH pilot program participants in comparison to other participants receiving HUD-assisted elderly housing. The system will be used to link, store, and analyze the administrative data collected through the SSD evaluation (HUD data, Medicare data, Medicaid data, and PHL data). Use of this system is essential to the successful implementation of the evaluation because analyzing person-level linked health and housing data is the main way the evaluation will measure the impacts of the demonstration on participating residents. Matching existing data from different federal and state government agencies is an innovative and cost-effective evaluation method that minimizes data collection burden on the public.

HUD and policy makers will use the information collected through the evaluation to understand the effectiveness and outcomes of the IWISH model. The evaluation will provide insight to Congress, HUD, grantee states, and other interested parties on issues to consider in providing housing-based supportive services. It will also provide rigorous, quantitative data on the impact of housing-based supportive services on healthcare utilization and housing stability among older adults in HUD-assisted housing.

The goal of the IWISH pilot being evaluated is to help low-income seniors to age in their own homes and delay or avoid the need for nursing home care. IWISH features a full-time Resident Wellness Director (RWD) with a part-time Wellness Nurse (WN) at each property. The RWD and WN work together to implement a formal strategy for coordinating services to help residents meet their needs. This strategy includes six key components:

- Resident engagement and a program rollout process to maximize participation.
- Standardized assessment with all participants after program enrollment and periodically throughout demonstration.
- A healthy aging plan for each participant and each property to address identified needs and interests, and a wellness and service coordination process to implement plans and address other resident needs.
- A centralized, web-based platform for tracking and monitoring resident and program data.
- Partnerships with appropriate local social service and health providers.
- Use of appropriate evidence-based health and wellness programs.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Residents of 124 HUD-assisted multifamily housing properties in California, Illinois, Maryland, Massachusetts, Michigan, New Jersey and South Carolina. Most individuals will be low-income seniors aged 62 or older.

CATEGORIES OF RECORDS IN THE SYSTEM:

- HUD-Tenant Rental Assistance Certificate System (TRACS): Tenant-level data on HUD-assisted residents. Data include age, race, ethnicity, household size, income, housing cost, and length of tenure, as well as PII (name, DOB, SSN) for purposes of data matching to Medicare, Medicaid, and PHL data.
- CMS/ResDAC Data (Medicare): Medicare fee-for-service (FFS) claims, Master Beneficiary Summary File (Enrollment Database), and Minimum Data Set 3.0 (MDS) from ResDAC. The data in these files include: inpatient, outpatient, skilled nursing facility, hospice, home health, carrier and Durable Medical Equipment Center (DMERC) claims, Part D event files, and nursing home assessment data. Data include PII and PHI. We will obtain the data through a Data Use Agreement with ResDAC, the contractor that manages external data requests on behalf of CMS.
- State Medicaid Data: Medicaid enrollment, fee-for-service (FFS) claims, and managed care encounter data. Data include PII and PHI. We will obtain data through separate Data Use Agreements with each of the seven states featured in the study.
- PHL Data: Self-reported demographic and health and social status information data on demonstration participants enrolled in IWISH collected by The Lewin Group. The main data items are (for each participant) an assessment of health and wellness, individual healthy aging plan, and data on the services and programs used. Includes PII and PHI. Data will be obtained through a Data Use Agreement with The Lewin Group, which is covered by a separate SORN, ''HUD Supportive Services Demonstration/Integrated Wellness in Supportive Housing: Privacy Act of 1974; System of Records,'' published in the **Federal Register** on February 15, 2018 (83 FR 6875).

RECORD SOURCE CATEGORIES:

HUD will obtain the records from one federal agency (HHS/CMS); state Medicaid agencies in seven states (California, Illinois, Maryland, Massachusetts, Michigan, New Jersey and South Carolina); and one private entity, HUD's contractor for the implementation of the demonstration, The Lewin Group. The focus groups and interviews conducted for the evaluation are not a source of records for the purposes of the SORN.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. Section 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside HUD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

1. To contractors, experts, consultants with whom HUD has a contract, service agreement, or other assignments of the Department, when necessary to utilize relevant data for purposes of testing new technology and systems designed to enhance program operations and performance.

2. To appropriate agencies, entities, and persons when (1) HUD suspects or has confirmed that there has been a breach of the system of records; (2) HUD has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, HUD (including its information systems, programs, and operations), the Federal Government, or national security; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with HUD's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

3. To another Federal agency or Federal entity, when HUD determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (1) responding to a suspected or confirmed breach or (2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Abt provides all project staff with HIPAA Rules of the Road—Practical Information for Ensuring Compliance; IRB 101 Training; General Security Awareness Training; and CITI Human

Subjects Training. All study team members also undergo project specific training on maintaining privacy and safe data storage and handling procedures.

All study team members will be made aware of the project-specific data regulations and best practices associated with handling data for the study. These practices are incorporated in the study protocol and will be detailed in training plans for interviewers, support staff, and data analytic staff. Abt will receive PII information from HUD TRACS data, including full name, date of birth, gender, SSN, address, for all residents of the 124 HUD-assisted multifamily properties in the demonstration.

HUD will transmit the data to Abt through either Huddle, Abt's FedRAMP Moderate accredited file transfer service for moving data in and out of the system, or another secure file transfer system (SFTP) of HUD's choice. Abt will access the data through its Analytic Computing Environment, ACE 3, which meets NIST SP 800–53 Revision 4 FISMA Moderate Standards, and utilizes FedRAMP Moderate accredited services from Amazon as infrastructure. Only authorized Abt staff will have access to the data on ACE 3 and to the project-specific folder on Huddle.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Once records are stored in Abt's database, records will be retrieved by Abt staff that are listed in data agreements as the individuals that can handle the data when PII or PHI is included in that data. Sessions are marked inactive when users log out of the system or stop working in the system for more than fifteen minutes. Records with PII will primarily be retrieved to obtain data from ResDAC and the State Medicaid agencies and to merge the four types of data: HUD TRACS, Medicare, Medicaid, and PHL into one evaluation data set. The personal identifiers used for these additional data sources are SSN, first and last name, and date of birth. Identifiers will only be retained where necessary for analysis. Any identifiers not needed for analysis (such as SSN) will be removed from the evaluation data set before analysis begins.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

The system of records will be retained by the contractor for no later than three years after the completion of the contract. After this time, no copies of or extracts from the person-level administrative data files, including names, address information, social security numbers, birthdates, or other identifiers shall be retained by the contractor. No later than three years after the completion of the contract, and pursuant to the terms of the individual data use agreements, the contractor will destroy the person-level administrative data obtained for the study from entities other than HUD. This includes:

- Medicare claims data provided by CMS/ResDAC
- Medicaid claims data provided by the seven states in the study
- PHL data (provided by The Lewin Group)

The contractor will return to HUD the person-level administrative database file obtained from HUD's TRACS system, with appended information on whether an individual was enrolled at any time in the IWISH program, the date of the resident's enrollment, and the date (if applicable) of the residents dis-enrollment from the program. (The information on enrollment will be obtained from the PHL data and will be included in the data use agreement with The Lewin Group.)

The contractor will also provide to HUD the programming code used to merge the database files and to conduct the analysis for the final reports, as part of the replication protocol described below. Published reports will be posted on HUDUser.gov. The replication protocol will be archived in perpetuity.

The retention and disposal procedures are in keeping with HUD's records management policies as described in 44 U.S.C. 3101 and 44 U.S.C. 3303 and with HUD's Records Disposition Schedule 67 for PD&R, Item 6. (*https://portal.hud.gov/hudportal/documents/huddoc?id=22256x67ADMH.pdf*).

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

The study's approved data security plan describes the safeguarding of any hardcopy, recorded, and electronic information on human subjects that will be a part of the study. All study team members are aware of the project-specific data regulations and best practices associated with handling data for the study. These practices are incorporated in the study protocol and will be detailed in training plans for interviewers, support staff, and data analytic staff. All staff who will have access to the data containing PII or PHI information sign a confidentiality agreement per the requirements of all data use agreements.

Abt will guarantee this level of restricted access by only using secure transfer mechanisms, such as Huddle, Abt's FedRAMP Moderate accredited file transfer service for moving data in and out of the system, or another secure file transfer system (SFTP) of the transferring agency's choice. Abt will also only access the data through its restricted access folder on the Analytic Computing Environment, ACE 3, which meets NIST SP 800–53 Revision 4 FISMA Moderate Standards, and utilizes FedRAMP Moderate accredited services from Amazon as infrastructure.

RECORD ACCESS PROCEDURES:

For information, assistance, or inquiry about records, contact John Bravacos, Senior Agency Official for Privacy, at 451 7th Street SW, Room 10226; U.S. Department of Housing and Urban Development; Washington, DC 20410–0001, telephone number 202–6064 (this is not a toll-free number). When seeking records about yourself from this system of records or any other Housing and Urban Development (HUD) system of records, your request must conform with the Privacy Act regulations set forth in 24 CFR part 16. You must first verify your identity, meaning that you must provide your full name, address, and date and place of birth. You must sign your request, and your signature must either be notarized or submitted under 28 U.S.C. 1746, a law that permits statements to be made, under penalty of perjury, as a substitute for notarization. If your request is seeking records pertaining to another living individual, you must include a statement from that individual certifying their agreement for you to access their records. Without the above information, the HUD FOIA Office may not conduct an effective search, and your request may be denied due to lack of specificity or lack of compliance with regulations.

CONTESTING RECORD PROCEDURES:

The Department's rules for contesting contents of records and appealing initial denials appear in 24 CFR part 16, Procedures for Inquiries. Additional assistance may be obtained by contacting John Bravacos, Senior Agency Official for Privacy, at 451 7th Street SW, Room 10139; U.S. Department of Housing and Urban Development; Washington, DC 20410–0001, or the HUD Departmental Privacy Appeals Officers; Office of General Counsel; U.S. Department of Housing and Urban Development; 451 7th Street SW, Washington, DC 20410–0001.

NOTIFICATION PROCEDURES:

Individuals seeking notification of and access to any record contained in this system of records, or seeking to contest its content, may submit a request in writing to the component's FOIA Officer, whose contact

information can be found at *http://www.hud.gov/foia* under ''contact.'' if an individual believes more than one component maintains Privacy Act records concerning him or her the individual may submit the request to the Chief Privacy Officer, HUD, 451 Seventh Street SW, Room 10139, Washington, DC 20410.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

None.

Dated: March 13, 2019.

John Bravacos,

Senior Agency Official for Privacy.

[FR Doc. 2019–05175 Filed 3–18–19; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–7015–N–03]

60-Day Notice of Proposed Information Collection: Indian Housing Block Grant (IHBG) Program Information Collection

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, PIH, HUD.

ACTION: Notice.

SUMMARY: HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 60 days of public comment.

DATES: *Comments Due Date:* May 20, 2019.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW, Room 4176, Washington, DC 20410–5000; telephone 202–402–3400 (this is not a toll-free number) or email at *Colette.Pollard@hud.gov* for a copy of the proposed forms or other available information. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

FOR FURTHER INFORMATION CONTACT: Arlette Mussington, Office of Policy, Programs and Legislative Initiatives, PIH, Department of Housing and Urban Development, 451 7th Street SW, Room 3178, Washington, DC 20410; telephone 202–402–4109, (this is not a toll-free number). Persons with hearing or speech impairments may access this number via TTY by calling the Federal Information Relay Service at (800) 877–8339. Copies of available documents submitted to OMB may be obtained from Ms. Mussington.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

A. Overview of Information Collection

Title of Information Collection: Indian Housing Block Grant (IHBG) Program Information Collection.

OMB Approval Number: 2577–0218.

Type of Request: Revision of a currently approved collection.

Form Number: HUD–4117, HUD–4119, HUD–52736–A, HUD–52736–B, HUD–52737, HUD–53246, HUD–53247.

Description of the need for the information and proposed use: The forms included in this collection are associated with the Indian Housing Block Grant (IHBG) program, as authorized under Title I of the Native American Housing Assistance and Self-Determination Reauthorization Act (NAHASDA) (25 U.S.C. 4101). The IHBG program provides funding to eligible Native American tribes and tribally designated housing entities (TDHEs) in the form of formula-based allocations and competitive awards.

IHBG Formula Allocations

NAHASDA authorizes HUD to allocate IHBG funds by formula annually. Recipients may use their IHBG funds to carry out a range of affordable housing activities that benefit low-income Indian families living on Indian reservations or in other Indian areas. HUD's Fiscal Year 2018 Report to Congress states that there are approximately 592 Indian tribes in 34 states that are eligible to participate in the program.

To receive an IHBG, a recipient is required to submit an Indian Housing Plan (IHP) annually to the Office of Native American Programs (ONAP). The IHP describes its planned affordable housing activities for its upcoming program year. The IHP is due to ONAP at least 75 days before the recipient's program year begins.

Recipients must also submit an Annual Performance Report (APR) to ONAP within 90 days of the end of their program year. The APR details the actual activities and accomplishments of their IHBG-funded housing programs.

IHBG Competitive Awards

In Fiscal Years 2018 and 2019, Congress enacted H.R. 1625—Consolidated Appropriations Act, 2018 (Pub. L. 115–141) (Effective: 3/23/18) that appropriated $99,000,000 each fiscal year for IHBGs awarded on a competitive basis. The IHBG Competitive program will give priority to projects that will spur construction and rehabilitation from NAHASDA-eligible recipients while considering need and administrative capacity. Additionally, applicants may apply for other eligible activities under Section 202 of NAHASDA.

In Fiscal Year 2019, HUD will make nearly $2,000,000 in IHBG Competitive funds available under a Notice of Funding Availability (NOFA) and will award the funds to the applicants with the highest rated applications, particularly those with the greatest housing need and administrative capacity. The regulations and requirements governing the formula-driven IHBG program will apply to the competitive IHBG program.

IHBG Competitive applicants must submit a complete application package which includes a narrative response to the NOFA requirements, Application for Federal Assistance (SF–424), Applicant/Recipient Disclosure/Update Report (HUD–2880), Acknowledgement of Application Receipt (HUD–2993), and two new forms: IHBG Cost Summary (HUD–53246), and IHBG Implementation Schedule (HUD–53247). At the end of the 12-month program year, grant recipients submit APRs describing accomplishments, outcomes, and outputs.

Attached to this submission are copies of the FY 2018 Appropriations language for the competitive IHBG program, FY 2019 IHBG Competitive NOFA, NAHASDA statute, and NAHASDA regulations at 24 CFR part 1000.

HUD–52737: Indian Housing Plan/Annual Performance Report (IHP/APR). A recipient of IHBG funds is required to submit an IHP/APR (HUD–52737) that consists of two components. The Indian Housing Plan (IHP) component describes the eligible IHBG-funded, affordable housing activities the recipient plans to conduct for the benefit of low- and moderate-income tribal members and identifies the intended outcomes and outputs for the upcoming 12-month program year. At the end of the 12-month period, the recipient submits the Annual Performance Report (APR) component

to describe (1) the use of grant funds during the prior 12-month period; (2) the actual outcomes and outputs achieved; (3) program accomplishments; and (4) jobs supported by IHBG-funded activities. (NAHASDA §§ 102 and 404).

HUD–4117 and HUD–4119: Formula Response Form and *Guidelines for Challenging U.S. Decennial Census Data Document.* IHBG recipients are responsible for notifying HUD of changes to the Formula Current Assisted Stock (FCAS) component of the IHBG formula. HUD is notified of changes in the FCAS through the Formula Response Form (HUD–4117). IHBG recipients or HUD may challenge the data from the U.S. Decennial Census or provide an alternative source of data by submitting the Guidelines for Challenging U.S. Decennial Census Data Document. Census challenges (HUD–4119) are due to HUD by March 30th of each fiscal year, as stipulated at 24 CFR 1000.336.

HUD–52736–A and B: Depository Agreements. IHBG recipients have the option of investing IHBG funds in eligible instruments with bankers and brokers by using the Depository Agreement for bankers (HUD–52736–A) and the Depository Agreement for brokers (HUD–52736–B). These agreements may be executed at any time.

Respondents (i.e., affected public): Native American tribes, Alaska Native villages and corporations, tribally designated housing entities, banks, and brokers.

AVERAGE HOURS PER RESPONSE, AND TOTAL ESTIMATED BURDENS

Indian housing block grant program	Form name	Number of responses	Frequency of response	Responses annually	Burden hour for response	Respondent annual burden hours
HUD–52737	HP/APR	792	2	1,584	62	98,208
HUD–4117	Formula Correction	300	1	300	0.5	150
HUD–4119	Formula Challenge	15	1	15	150	2,250
HUD–52736–A	Depository Agreement (Banker).	394	1	394	0.25	99
HUD–52736–B	Depository Agreement (Broker).	394	1	394	0.25	99
SF–424, HUD–2880, HUD–2993, HUD–53246, HUD–53247.	IHBG Competitive Grant Application.	500	1	500	80	40,000
Total		2,395	7	3,187	293	140,805

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

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

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

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

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: March 1, 2019.

Merrie Nichols-Dixon,

''*Director, Office of Policy, Program and Legislative Initiatives.*

[FR Doc. 2019–05176 Filed 3–18–19; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R4–ES–2018–N016; FXES11140400000–190–FF04E00000]

Endangered Species; Recovery Permit Applications

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of permit applications; request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service, have received applications for permits to conduct activities intended to enhance the propagation or survival of endangered species under the Endangered Species Act of 1973, as amended. We invite the public and local, State, Tribal, and Federal agencies to comment on these applications. Before issuing any of the requested permits, we will take into consideration any information that we receive during the public comment period.

DATES: We must receive written data or comments on the applications by April 18, 2019.

ADDRESSES: *Reviewing Documents:* Documents and other information submitted with the applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act. Submit a request for a copy of such documents to Karen Marlowe (see **FOR FURTHER INFORMATION CONTACT**).

Submitting Comments: If you wish to comment, you may submit comments by one of the following methods:

- *U.S. mail or hand-delivery:* U.S. Fish and Wildlife Service Regional Office, Ecological Services, 1875 Century Boulevard, Atlanta, GA 30345 (Attn: Karen Marlowe, Permit Coordinator).
- *Email: permitsR4ES@fws.gov.* Please include your name and return address in your email message. If you do not receive a confirmation from the U.S. Fish and Wildlife Service that we have received your email message, contact us directly at the telephone number listed in **FOR FURTHER INFORMATION CONTACT**.

FOR FURTHER INFORMATION CONTACT: Karen Marlowe, Permit Coordinator, 404–679–7097 (telephone), *karen_marlowe@fws.gov* (email), or 404–679–7081 (fax). Individuals who are hearing or speech impaired may call the Federal

Relay Service at 1–800–877–8339 for TTY assistance.

SUPPLEMENTARY INFORMATION: We invite review and comment from local, State, and Federal agencies and the public on applications we have received for permits to conduct certain activities with endangered and threatened species under section 10(a)(1)(A) of the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), and our regulations in the Code of Federal Regulations (CFR) at 50 CFR part 17. With some exceptions, the ESA prohibits activities that constitute take of listed species unless a Federal permit is issued that allows such activities. The ESA's definition of ''take'' includes hunting, shooting, harming, wounding, or killing, and also such activities as pursuing, harassing, trapping, capturing, or collecting.

A recovery permit issued by us under section 10(a)(1)(A) of the ESA authorizes the permittee to conduct activities with endangered or threatened species for scientific purposes that promote recovery or for enhancement of propagation or survival of the species. These activities often include such prohibited actions as capture and collection. Our regulations implementing section 10(a)(1)(A) for these permits are found at 50 CFR 17.22 for endangered wildlife species, 50 CFR 17.32 for threatened wildlife species, 50 CFR 17.62 for endangered plant species, and 50 CFR 17.72 for threatened plant species.

Permit Applications Available for Review and Comment

Proposed activities in the following permit requests are for the recovery and enhancement of propagation or survival of the species in the wild. The ESA requires that we invite public comment before issuing these permits. Accordingly, we invite local, State, Tribal, and Federal agencies and the public to submit written data, views, or arguments with respect to these applications. The comments and recommendations that will be most useful and likely to influence agency decisions are those supported by quantitative information or studies.

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.

Permit application No.	Applicant	Species/numbers	Location	Activity	Type of take	Permit action
TE 12370D–0	Kelly Lutsch, Glenview, IL.	Gray bat (*Myotis grisescens*), Indiana bat (*Myotis sodalis*), and Northern long-eared bat (*Myotis septentrionalis*).	Alabama, Arkansas, Connecticut, Delaware, District of Columbia, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Vermont, Virginia, West Virginia, Wisconsin, and Wyoming.	Presence/absence surveys, and WNS surveillance.	Enter hibernacula or maternity roost caves, capture with mist nets or harp traps, handle, identify, band, radio-tag, swab, wing-punch, collect hair samples, and release.	New.
TE 12379D–0	Robert McCleery, Gainesville, FL.	Rice rat (*Oryzomys palustris natator*).	Florida	Post-Hurricane Irma population survey.	Trap, handle, mark, tag, and release.	New.

Permit application No.	Applicant	Species/numbers	Location	Activity	Type of take	Permit action
TE 100070–3 ..	USDA Forest Service	Gray bat (*Myotis grisescens*), Indiana bat (*Myotis sodalis*), Northern long-eared bat (*Myotis septentrionalis*), Flattened musk turtle (*Sternotherus depressus*), Rush darter (*Etheostoma phytophilum*), Black Warrior waterdog (*Necturus alabamensis*), Alabama moccasinshell (*Medionidus acutissimus*), Dark pigtoe (*Pleurobema furvum*), Triangular kidneyshell (*Ptychobranchus greenii*), Fleshy-fruit gladecress (*Leavenworthia crassa*), Kral's water-plantain (*Sagittaria secundifolia*), Alabama streak-sorus fern (*Thelypteris pilosa* var. *alabamensis*), and Price's potato-bean (*Apios priceana*).	National Forests in Alabama.	Surveys, population monitoring, and WNS surveillance.	Bats: Capture with mist nets and harp traps, handle, identify, band, radio-tag, collect hair samples, release, and salvage. Aquatic species: capture, release, and salvage. Plants: Collect roots, seeds, flowers, and leaves.	Renewal and Amendment.
48049B–2	Kathryn Cunningham, Garner, NC.	Gray bat (*Myotis grisescens*).	Alabama, Arkansas, Florida, Illinois, Indiana, Kansas, Kentucky, Mississippi, Missouri, North Carolina, Oklahoma, Tennessee, and Virginia.	Presence/absence surveys and population monitoring.	Enter hibernacula or maternity roost caves, capture with mist nets or harp traps, handle, identify, band, radio-tag, release, and salvage.	Amendment.
TE 16876D–0	Kristen Clemens, Florence, KY.	Gray bat (*Myotis grisescens*), Indiana bat (*Myotis sodalis*), and Northern long-eared bat (*Myotis septentrionalis*).	Alabama, Arkansas, Connecticut, Delaware, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Vermont, Virginia, West Virginia, Wisconsin, and Wyoming.	Presence/absence surveys.	Capture with mist nets, handle, band, radio-tag, and release.	New.
TE 083085–3 ..	Eric Menges, Lake Placid, FL.	*Polygala lewtonii* (Lewton's polygala) and *Ziziphus celata* (Florida ziziphus).	Lake Wales Ridge National Wildlife Refuge, Highlands County, Florida.	Germination experiments, seed dispersal studies, establishment of viable populations, and collection of voucher specimens.	Remove and reduce to possession (collect) seeds.	Renewal and Amendment.

Permit application No.	Applicant	Species/numbers	Location	Activity	Type of take	Permit action
TE 20276D–0	Royal Botanic Gardens, Kew, Richmond, UK.	*Calyptranthes thomasiana* (no common name (NCN)), *Peperomia wheeleri* (Wheeler's peperomia), *Varronia rupicola* (NCN), and *Zanthoxylum thomasianum* (St. Thomas prickly-ash).	Virgin Islands National Park, U.S. Virgin Islands, and Vieques National Wildlife Refuge, Puerto Rico.	Artificial propagation, long-term seed storage, genetic studies, reproductive studies, and collection voucher specimens.	Remove and reduce to possession (collect) seeds, cuttings, leaf samples, floral structures, and vegetative material with leaves and reproductive structures.	New.
TE 21276D–0	Christopher Carpenter, Winchester, KY.	Gray bat (*Myotis grisescens*), Indiana bat (*Myotis sodalis*), Northern long-eared bat (*Myotis septentrionalis*), and Virginia big-eared bat (*Corynorhinus* (=*Plecotus*) *townsendii virginianus*).	Alabama, Arkansas, Connecticut, Georgia, Illinois, Indiana, Iowa, Kentucky, Maryland, Michigan, Mississippi, Missouri, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, Tennessee, Vermont, Virginia, and West Virginia.	Presence/absence surveys and population monitoring.	Enter hibernacula or maternity roost caves, capture with mist nets or harp traps, handle, identify, band, radio-tag, and release.	New.
TE 02166C–1	Zoe Bryant, Wixom, MI.	Gray bat (*Myotis grisescens*) and Indiana bat (*Myotis sodalis*).	Alabama, Arkansas, Connecticut, Delaware, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Vermont, Virginia, West Virginia, Wisconsin, and Wyoming.	Presence/absence surveys and population monitoring.	Capture with mist nets or harp traps, handle, identify, band, radio tag, and release.	Amendment.
TE 171518–1 ..	Ouachita National Forest, Hot Springs, AR.	Gray bat (*Myotis grisescens*), Indiana bat (*Myotis sodalis*), Northern long-eared bat (*Myotis septentrionalis*), Red-cockaded woodpecker (*Picoides borealis*), and American burying beetle (*Nicrophorus americanus*).	Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, Oklahoma, Tennessee, and Texas.	.....	Bats: Enter hibernacula or maternity roost caves, capture with mist nets or harp traps, handle, identify, and salvage. Red-cockaded woodpecker: Monitor nest cavities, construct and monitor artificial nest cavities and restrictors, capture, handle, band, translocate, and salvage. American burying beetle: Capture and release	Renewal and Amendment.
TE 77472C–0	Stream Techs, LLC, Athens, GA.	Amber darter (*Percina antesella*), Blue shiner (*Cyprinella caerulea*), Cherokee darter (*Etheostoma scotti*), Conasauga logperch (*Percina jenkinsi*), Etowah darter (*Etheostoma etowahae*), and Goldline darter (*Percina aurolineata*).	Georgia	Presence/absence surveys.	Capture, handle, identify, and release.	New.

Authority

We publish this notice under section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Franklin Arnold,

Acting Assistant Regional Director, Ecological Services, Southeast Region.

[FR Doc. 2019–05111 Filed 3–18–19; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–PWRO–TUSK–27178; PPPWTUSK00, PPMPSPD1Z.YM0000]

Tule Springs Fossil Beds National Monument Advisory Council Notice of Public Meeting

AGENCY: National Park Service, Interior.

ACTION: Meeting notice.

SUMMARY: In accordance with the Federal Advisory Committee Act of 1972, the National Park Service (NPS) is hereby giving notice that the Tule Springs Fossil Beds National Monument Advisory Council (Council) will meet as indicated below.

DATES: The meeting will be held on Monday, April 8, 2019, at 5:00 p.m. (PACIFIC).

ADDRESSES: The meeting will be held at the Federal Interagency Office Building, 4701 N. Torrey Pines Road, Las Vegas, Nevada 89130–2301.

FOR FURTHER INFORMATION CONTACT: Further information concerning the meeting may be obtained from Diane Keith, Superintendent, Tule Springs Fossil Beds National Monument, 601 Nevada Way, Boulder City, Nevada 89005, via telephone at (702) 515–5462, or email at *tusk_information@nps.gov.*

SUPPLEMENTARY INFORMATION: The Council was established pursuant to section 3092(a)(6) of Public Law 113–291 and in accordance with the provisions of the Federal Advisory Committee Act (5 U.S.C. Appendix 1–16). The purpose of the Council is to advise the Secretary of the Interior with respect to the preparation and implementation of the management plan.

Purpose of the Meeting: The Council will discuss the following:

1. Introduction of the Designated Federal Officer and Council Members
2. Committee Roll
3. Approval of Agenda
4. Review and Approval of Minutes
5. Reports
   a. Superintendent Report
   b. Old Business
   c. New Business
6. Public Comments
7. Adjourn

The meeting is open to the public. Interested persons may make oral/written presentations to the Council during the business meeting or file written statements. Such requests should be made to the Superintendent prior to the meeting.

Public Disclosure of Comments: Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Authority: 5 U.S.C. Appendix 2.

Alma Ripps,

Chief, Office of Policy.

[FR Doc. 2019–05173 Filed 3–18–19; 8:45 am]

BILLING CODE 4312–52–P

JUDICIAL CONFERENCE OF THE UNITED STATES

Meeting of the Judicial Conference Committee on Rules of Criminal Procedure

AGENCY: Judicial Conference of the United States, Advisory Committee on Rules of Criminal Procedure.

ACTION: Notice of open meeting.

SUMMARY: The Advisory Committee on Rules of Criminal Procedure will hold a meeting on May 7, 2019. The meeting will be open to public observation but not participation. An agenda and supporting materials will be posted at least 7 days in advance of the meeting at: *http://www.uscourts.gov/rules-policies/records-and-archives-rules-committees/agenda-books.*

DATES: May 7, 2019.

Time: 9:00 a.m.–5:00 p.m.

ADDRESSES: The Alexandrian, 480 King Street, Alexandria, VA 22314.

FOR FURTHER INFORMATION CONTACT: Rebecca A. Womeldorf, Rules Committee Secretary, Rules Committee Staff, Administrative Office of the United States Courts, Washington, DC 20544, telephone (202) 502–1820.

Dated: March 14, 2019.

Rebecca A. Womeldorf,

Rules Committee Secretary.

[FR Doc. 2019–05170 Filed 3–18–19; 8:45 am]

BILLING CODE 2210–55–P

JUDICIAL CONFERENCE OF THE UNITED STATES

Meeting of the Judicial Conference Committee on Rules of Evidence

AGENCY: Advisory Committee on Rules of Evidence, Judicial Conference of the United States.

ACTION: Notice of open meeting.

SUMMARY: The Advisory Committee on Rules of Evidence will hold a meeting on May 3, 2019. The meeting will be open to public observation but not participation. An agenda and supporting materials will be posted at least 7 days in advance of the meeting at: *http://www.uscourts.gov/rules-policies/records-and-archives-rules-committees/agenda-books.*

DATES: May 3, 2019.

Time: 8:30 a.m.–5:00 p.m.

ADDRESSES: Thurgood Marshall Federal Judiciary Building, Mecham Conference Center, Administrative Office of the United States Courts, One Columbus Circle NE, Washington, DC 20544.

FOR FURTHER INFORMATION CONTACT: Rebecca A. Womeldorf, Rules Committee Secretary, Rules Committee Staff, Administrative Office of the United States Courts, Washington, DC 20544, telephone (202) 502–1820.

Dated: March 14, 2019.

Rebecca A. Womeldorf,

Rules Committee Secretary.

[FR Doc. 2019–05171 Filed 3–18–19; 8:45 am]

BILLING CODE 2210–55–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under the Clean Water Act

On March 12, 2019, the Department of Justice lodged a second proposed partial consent decree with the United States District Court for the District of Hawaii in *United States of America* v. *Azure Fishery LLC et al.,* Civil Action No. 1:18–cv–00339.

The complaint in this Clean Water Act (''CWA'') case alleges claims against Hawaii-based longline fishing companies Azure Fishery LLC and Linh Fishery LLC and individuals Hanh Nguyen, Khang Dang, Andy Hoang, and Tuan Hoang. The complaint addresses

illegal discharges of oil from the commercial longline fishing vessel *Jaxon T,* now known as the *St. Joseph,* as well as related violations of the Coast Guard's pollution control regulations, including failure to provide sufficient capacity to retain oily bilge waste on board the vessel. As pertinent to the proposed settlement with Linh Fishery LLC, the complaint includes an injunctive relief claim under the Clean Water Act and a claim under the Federal Debt Collection Procedures Act concerning the alleged fraudulent conveyance of the *Jaxon T* after the oil discharge violations occurred.

Under the proposed partial consent decree, defendant Linh Fishery LLC will perform corrective measures to prevent future violations on the *Jaxon T.* Required actions include: (1) Making repairs to the vessel to reduce the quantity of oily waste generated during fishing voyages; (2) providing crewmembers with training on the proper handling of oily wastes; (3) documenting proper oily waste management and disposal after returning to port; and (4) submitting compliance reports to the Coast Guard and to the Department of Justice.

The publication of this notice opens a period for public comment on the second proposed partial consent decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States of America* v. *Azure Fishery LLC et al.,* D.J. Ref. No. 90–5–1–1–11849. 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 proposed 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 proposed 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 $14.25 (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. 2019–05096 Filed 3–18–19; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under the Compresensive Environmental Response, Compensation, and Liability Act

On March 13. 2019, a proposed Consent Decree in *United States* v. *Boston and Maine Corporation,* Civil Action No. 13–10087, was filed with the United States District Court for Massachusetts.

The proposed Consent Decree between the United States of America, Boston and Maine Corporation (''B&M''), and the Town of Ayer, resolves the claims, counterclaims, and third-party claims, under the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. 9601 *et seq.,* between the parties relating to the cleanup of a portion of Fort Devens encompassing a former railroad roundhouse owned and/or operated by B&M, in Ayer, Massachusetts. The proposed Consent Decree requires B&M to pay the United States $2.4 million in four installments, plus interest, and requires no costs to be paid by the Town of Ayer.

The publication of this notice opens a period for public comment on the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States* v. *Boston and Maine Corporation,* Civil Action No. 13–10087, D.J. Ref. 90–11–3–09710. 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 proposed Consent Decree may be examined and downloaded at this Justice Department website: *http://www.justice.gov/enrd/consent-decrees.* We will provide a paper copy of the proposed 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 (25 cents per page reproduction cost) payable to the United States Treasury.

Robert Maher,

Assistant Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2019–05058 Filed 3–18–19; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Determinations Regarding Eligibility To Apply for Trade Adjustment Assistance

In accordance with the Section 223 (19 U.S.C. 2273) of the Trade Act of 1974 (19 U.S.C. 2271, *et seq.*) (''Act''), as amended, the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance under Chapter 2 of the Act (''TAA'') for workers by (TA–W) number issued during the period of *December 1, 2018 through December 31, 2018.* (This Notice primarily follows the language of the Trade Act. In some places however, changes such as the inclusion of subheadings, a reorganization of language, or ''and,'' ''or,'' or other words are added for clarification.)

Section 222(a)—Workers of a Primary Firm

In order for an affirmative determination to be made for workers of a primary firm and a certification issued regarding eligibility to apply for TAA, the group eligibility requirements under Section 222(a) of the Act (19 U.S.C. 2272(a)) must be met, as follows:

(1) The first criterion (set forth in Section 222(a)(1) of the Act, 19 U.S.C. 2272(a)(1)) is that a significant number or proportion of the workers in such workers' firm (or ''such firm'') have become totally or partially separated, or are threatened to become totally or partially separated; AND (2(A) or 2(B) below)

(2) The second criterion (set forth in Section 222(a)(2) of the Act, 19 U.S.C. 2272(a)(2)) may be satisfied by either (A)

the Increased Imports Path, or (B) the Shift in Production or Services to a Foreign Country Path/Acquisition of Articles or Services from a Foreign Country Path, as follows:

(A) Increased Imports Path:

(i) The sales or production, or both, of such firm, have decreased absolutely; AND (ii and iii below)

(ii) (I) imports of articles or services like or directly competitive with articles produced or services supplied by such firm have increased; OR (II)(aa) imports of articles like or directly competitive with articles into which one or more component parts produced by such firm are directly incorporated, have increased; OR (II)(bb) imports of articles like or directly competitive with articles which are produced directly using the services supplied by such firm, have increased; OR (III) imports of articles directly incorporating one or more component parts produced outside the United States that are like or directly competitive with imports of articles incorporating one or more component parts produced by such firm have increased; AND

(iii) the increase in imports described in clause (ii) contributed importantly to such workers' separation or threat of separation and to the decline in the sales or production of such firm; OR

(B) Shift in Production or Services to a Foreign Country Path OR Acquisition of Articles or Services from a Foreign Country Path:

(i) (I) There has been a shift by such workers' firm to a foreign country in the production of articles or the supply of services like or directly competitive with articles which are produced or services which are supplied by such firm; OR (II) such workers' firm has acquired from a foreign country articles or services that are like or directly competitive with articles which are produced or services which are supplied by such firm; AND

(ii) the shift described in clause (i)(I) or the acquisition of articles or services described in clause (i)(II) contributed importantly to such workers' separation or threat of separation.

Section 222(b)—Adversely Affected Secondary Workers

In order for an affirmative determination to be made for adversely affected secondary workers of a firm and a certification issued regarding eligibility to apply for TAA, the group eligibility requirements of Section 222(b) of the Act (19 U.S.C. 2272(b)) must be met, as follows:

(1) A significant number or proportion of the workers in the workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated; AND

(2) the workers' firm is a supplier or downstream producer to a firm that employed a group of workers who received a certification of eligibility under Section 222(a) of the Act (19 U.S.C. 2272(a)), and such supply or production is related to the article or service that was the basis for such certification (as defined in subsection 222(c)(3) and (4) of the Act (19 U.S.C. 2272(c)(3) and (4)); AND

(3) either—

(A) the workers' firm is a supplier and the component parts it supplied to the firm described in paragraph (2) accounted for at least 20 percent of the production or sales of the workers' firm; OR

(B) a loss of business by the workers' firm with the firm described in paragraph (2) contributed importantly to the workers' separation or threat of separation determined under paragraph (1).

Section 222(e)—Firms identified by the International Trade Commission

In order for an affirmative determination to be made for adversely affected workers in firms identified by the International Trade Commission and a certification issued regarding eligibility to apply for TAA, the group eligibility requirements of Section 222(e) of the Act (19 U.S.C. 2272(e)) must be met, by following criteria (1), (2), and (3) as follows:

(1) The workers' firm is publicly identified by name by the International Trade Commission as a member of a domestic industry in an investigation resulting in—

(A) an affirmative determination of serious injury or threat thereof under section 202(b)(1) of the Act (19 U.S.C. 2252(b)(1)); OR

(B) an affirmative determination of market disruption or threat thereof under section 421(b)(1) of the Act (19 U.S.C. 2436(b)(1)); OR

(C) an affirmative final determination of material injury or threat thereof under section 705(b)(1)(A) or 735(b)(1)(A) of the Tariff Act of 1930 (19 U.S.C. 1671d(b)(1)(A) and 1673d(b)(1)(A)); AND

(2) the petition is filed during the 1-year period beginning on the date on which—

(A) a summary of the report submitted to the President by the International Trade Commission under section 202(f)(1) of the Trade Act (19 U.S.C. 2252(f)(1)) with respect to the affirmative determination described in paragraph (1)(A) is published in the **Federal Register** under section 202(f)(3) (19 U.S.C. 2252(f)(3)); OR

(B) notice of an affirmative determination described in subparagraph (B) or (C) of paragraph (1) is published in the **Federal Register**; AND

(3) the workers have become totally or partially separated from the workers' firm within—

(A) the 1-year period described in paragraph (2); OR

(B) notwithstanding section 223(b) of the Act (19 U.S.C. 2273(b)), the 1-year period preceding the 1-year period described in paragraph (2).

Affirmative Determinations for Trade Adjustment Assistance

The following certifications have been issued. The date following the company name and location of each determination references the impact date for all workers of such determination.

The following certifications have been issued. The requirements of Section 222(a)(2)(A) (Increased Imports Path) of the Trade Act have been met.

TA–W No.	Subject firm	Location	Impact date
93,957	Mallinckrodt Enterprises, LLC, Mallinckrodt plc	St. Louis, MO	July 5, 2017.
94,046	Teters Floral Products, Inc., Penmac Personnel Services, Express Employment Professionals.	Bolivar, MO	August 6, 2017.
94,203	Floturn, Inc	Fairfield, OH	October 3, 2017.
94,230	Heritage Home Group, LLC, Eastchester Offices, Accounting Principles, Onin Staffing, etc.	High Point, NC	October 5, 2017.
94,230A	Heritage Home Group, LLC, Morrison Ave Distribution Center	Thomasville, NC	October 5, 2017.
94,230B	Heritage Home Group, LLC, Lenoir Case Goods Plant, Lenoir Wood Plant, Jobs One Staffing.	Lenoir, NC	October 5, 2017.
94,230C	Heritage Home Group, LLC, Lenoir Upholstery Plant, Jobs One Staffing.	Lenoir, NC	October 5, 2017.

TA–W No.	Subject firm	Location	Impact date
94,271	Homer Donaldson Company LLC, U.S. Staffing Agency	Hudson, MI	October 23, 2017.
94,327	Keurig Green Mountain, Inc., Keurig Dr Pepper, Inc., Randstad, Westaff, Spherion Staffing Services.	Waterbury, VT	November 16, 2018.
94,327A	Keurig Green Mountain, Inc., Keurig Dr Pepper Inc., Bay State Search, Randstad Staffing, Spherion, etc.	Waterbury Center, VT	November 8, 2017.
94,327B	Atwork/PPS, Bay State Search, Clearbridge Technology Group, Robert Half, Keurig Green Mountain, Inc., Keurig Dr Pepper Inc.	Waterbury, VT	November 8, 2017.

The following certifications have been issued. The requirements of Section 222(a)(2)(B) (Shift in Production or Services to a Foreign Country Path or Acquisition of Articles or Services from a Foreign Country Path) of the Trade Act have been met.

TA–W No.	Subject firm	Location	Impact date
93,708	MOL (America) Inc., MOL (Americas) Holding, Inc., Mitsui O.S.K. Lines, LTD., Robert Half, etc.	Woodbridge, NJ	April 6, 2017.
93,864	Deluxe 3D LLC, Deluxe Creative Services Inc., Deluxe Shared Services Inc.	Burbank, CA	June 1, 2017.
93,889	MG Industries Erie, Inc	Lake City, PA	June 13, 2017.
93,954	Two Rivers Conferencing, LLC	Elk Grove Village, IL	July 3, 2017.
93,979	Commonwealth Brands, Inc., ITG Brands, LLC Division, Imperial Brands, PLC, Staff King Services, etc.	Reidsville, NC	July 12, 2017.
93,983	Wells Fargo Home Lending Retail Fulfillment-East, Wells Fargo & Company, Consumer Lending Group (CLG).	Pittsford, NY	July 12, 2017.
94,086	Micron Technology, Inc., Experis, Manpower Group	Boise, ID	December 14, 2018.
94,095	CDK Global, LLC, Client Services Infrastructure Division, CDK Global, Inc.	Cincinnati, OH	August 27, 2017.
94,114	Famma Group Inc., Patternmaking Department	Los Angeles, CA	September 6, 2017.
94,138	Bose Corporation, Global Sales Division, Randstad	Westborough, MA	April 8, 2018.
94,138A	iGate Technologies, Inc., Capgemini, Securitas Security Services USA, Inc., Bose Corporation, Global Sales Division.	Westborough, MA	September 13, 2017.
94,139	Kodak Alaris Inc., Credit & Collections Team, Kodak Alaris Holdings Limited.	Rochester, NY	September 17, 2017.
94,151	HSBC Technology and Services, USA (HTSU), Financial Crime Risk Division, HSBC North America Holdings Inc.	Buffalo, NY	September 20, 2017.
94,163	Partners Healthcare Inc., Corporate Coding Division, Randstad and Bullfinch Temps.	Somerville, MA	September 22, 2017.
94,189	Siemens Demag Delaval Turbomachinery Inc., Power Generation Services, Siemens Energy Inc., etc.	Trenton, NJ	October 1, 2017.
94,191	Wells Fargo Bank NA, Wells Fargo Consumer Lending Group—Customer Account Management, etc.	St. Louis Park, MN	September 28, 2017.
94,208	Ambit Management LLC, Call Center Services, Ambit Holdings US LLC.	Plano, TX	October 8, 2017.
94,211	International Business Machines (IBM), IBM Department B2AA and B4ZA, Global Business Services Division.	San Ramon, CA	October 5, 2017.
94,212	Qualcomm Technologies, Inc., Technical Publications Communications Group, Qualcomm, Inc.	San Diego, CA	September 3, 2018.
94,213	Citizens Bank, National Association, Citizens Financial Group, Inc., Home Mortgage Operations Division.	Glen Allen, VA	October 5, 2017.
94,213A	Citizens Bank, National Association, Citizens Financial Group, Inc., Home Mortgage Operations Division, etc.	Warwick, RI	October 5, 2017.
94,213B	Citizens Bank, National Association, Citizens Financial Group, Inc., Home Mortgage Operations Division.	Cincinnati, OH	October 5, 2017.
94,215	The TJX Companies Inc., Corporate IT Department, A&A Search Staffing, LLC, Accenture LLP, etc.	Marlborough, MA	October 9, 2017.
94,216	Union Electric Akers, Akers National Roll, Ampco-Pittsburgh Corporation/Union Electric Akers.	Avonmore, PA	November 4, 2018.
94,220	Neff Motivation, Inc., Data Entry, Accounting, and Customer Services, Jostens, Inc. Division, etc.	Greenville, OH	October 9, 2017.
94,234	GBG USA Inc., Samplemaking and Patternmaking, GBG North America Holdings, Win-Temp LLC.	Vernon, CA	October 12, 2017.
94,235	Viant Monticello, Inc., MedPlast Monticello, Inc., Plastics Processing Solutions Division, etc.	Monticello, IA	October 15, 2017.
94,237	Trelleborg Offshore US, Inc., Advantage	Houston, TX	October 15, 2017.
94,239	Carlson Wagonlit Travel, Inc., CWT Holdco BV	Minnetonka, MN	October 16, 2017.
94,241	Daikin Applied Americas, Daikin Industries, Ltd., ResourceMFG	Verona, VA	October 16, 2017.
94,242	International Business Machines (IBM), IBM Department B7DB PCM Midrange, Global Technology Services (GTS) Division.	Southbury, CT	October 16, 2017.
94,249	Allstate Insurance Company, ABO-Enterprise Services, Policy Administration Department.	Roanoke, VA	October 18, 2017.
94,259	CashStar, Blackhawk Network Holdings, Inc	Portland, ME	October 23, 2017.

TA–W No.	Subject firm	Location	Impact date
94,260	Qwest Corporation and Level 3 Communications, Desk Top Services and Service Desk teams, CenturyLink, Inc.	Monroe, LA	October 22, 2017.
94,260A	Qwest Corporation and Level 3 Communications, Desk Top Services and Service Desk teams, CenturyLink, Inc.	Denver, CO	October 22, 2017.
94,260B	Qwest Corporation and Level 3 Communications, Desk Top Services and Service Desk teams, CenturyLink, Inc.	Littleton, CO	October 22, 2017.
94,262	Henkel Corporation, Agile 1	Salt Lake City, UT	October 22, 2017.
94,263	J.W. Hulme Company LLC	St. Paul, MN	October 22, 2017.
94,266	Ossur North America, Ossur hf	Camarillo, CA	October 22, 2017.
94,270	Medtronic, Culver City, California Division, Aerotek	Culver City, CA	October 23, 2017.
94,278	Forcepoint LLC, Raytheon Company	Santa Clara, CA	October 25, 2017.
94,280	Paysafe Group, iPayment, Inc. Division, Howroyd-Wright Employment Agency, Inc., AppleOne.	Westlake Village, CA	October 25, 2017.
94,282	Movement Mortgage, LLC, Norfolk Sales Support Center	Norfolk, VA	October 26, 2017.
94,282A	Movement Mortgage, LLC, Richmond Operations Center	Richmond, VA	October 26, 2017.
94,283	ULX Partners, United Lex, DXC, LeClairRyan, PLLC, GLC	Glen Allen, VA	October 26, 2017.
94,285	American Media LLC	Pleasanton, CA	October 29, 2017.
94,286	Boston Herald, Digital First Media, Media News Group, Inc., MNG Enterprises, Inc., etc.	Boston, MA	October 29, 2017.
94,288	Crawford & Company, Finance Department	Peachtree Corners, GA	October 30, 2017.
94,290	Connexions Loyalty Travel Solutions, Affinion Group, Connexions Loyalty Division, Aerotek.	St. Louis, MO	October 31, 2017.
94,291	My Experian, Inc., Consumer Call Center	Allen, TX	October 31, 2017.
94,291A	Experian Information Solutions, Inc., Information Technology Services, Talent/Wave/Synergy Services, etc.	Allen, TX	October 31, 2017.
94,292	FXI, Inc., Baldwyn, MS Plant, FXI Holdings, Inc., PeopleLink, etc	Baldwyn, MS	October 23, 2017.
94,294	MModal Services, Limited	Franklin, TN	November 5, 2017.
94,295	Overly Door Company	Greensburg, PA	October 31, 2017.
94,298	Communications Test Design, Inc., Network Services Division, Adecco, NAOS.	Lebanon, TN	November 1, 2017.
94,309	Tangoe US, Inc., Rivermine Custom Product Development Organization.	Parsippany, NJ	October 30, 2017.
94,310	Varex Imaging West, LLC, Varex Imaging Corporation, Ultimate Staffing.	Santa Clara, CA	November 5, 2017.
94,311	Wilbrecht LEDCO, Inc	St. Paul, MN	November 5, 2017.
94,319	Nokia of America Corporation, Nokia OIY, Nokia Solutions & Networks LLC, Alcatel-Lucent USA Inc.	Irving, TX	November 7, 2017.
94,319A	Nokia of America Corporation, Nokia OIY, Nokia Solutions & Networks LLC, Alcatel-Lucent USA Inc.	Plano, TX	November 7, 2017.
94,321	Siemens Healthineers, Advanced Therapies	Hoffman Estates, IL	November 6, 2017.
94,328	Silberline Manufacturing Company, Inc	Decatur, IN	November 8, 2017.
94,330	Leuze electronic Inc., Leuze electronic GMBH + CO. KG	Fairport, NY	November 13, 2017.
94,332	Control Concepts Corporation, c3controls, Manpower	Beaver, PA	November 13, 2017.
94,340	UTC Fire & Security Americas Corporation, Inc., United Technologies Corporation, Manpower, PDS Tech, etc.	Lincolnton, NC	November 14, 2017.
94,345	Weetabix Company, LLC, Post Consumer Brands, Post Holdings, Micro Tech Staffing, etc.	Clinton, MA	November 15, 2017.
94,347	Boston Scientific Corporation, Cosman Location, Neuromodulation Division, Talent Choice.	Burlington, MA	November 19, 2017.
94,349	International Business Machines (IBM), IBM Department 2WFA, Global Business Services (GBS) Division, Experis.	Plano, TX	November 20, 2017.
94,355	MetrixLab US, Inc., Acturus, Inc., Macromill Group, Data Processing Services.	Wexford, PA	November 20, 2017.
94,356	TE Connectivity, Connectors Division, Aerotek Staffing, RemX Staffing, Peak Technical, etc.	Oceanside, CA	November 21, 2017.
94,357	Tangoe US, Inc., Operations and Audit Organization	Shelton, CT	November 19, 2017.
94,358	Nokia of America Corporation, Nokia OIY, Nokia Solutions & Networks LLC, Alcatel-Lucent USA Inc.	Alpharetta, GA	November 26, 2017.
94,359	MFS Investment Management, Internal Computer Operations, Massachusetts Financial Services, etc.	Boston, MA	November 15, 2017.
94,368	Global Cash Card, Inc., ADP, Payments, Robert Half International, Anteo Group, Apex Systems, etc.	Irvine, CA	November 28, 2017.
94,370	Knowles Cazenovia, Inc., Knowles Precision Devices, Knowles Corporation, Compex Corporation, etc.	West Berlin, NJ	November 29, 2017.
94,371	Sun Pharmaceutical Industries, Inc., Sun Pharmaceutical Holding, USA, Cranbury Division.	Cranbury, NJ	November 29, 2017.
94,376	Ozonics, LLC	Mason City, IA	November 30, 2017.
94,389	Huron Consulting Services LLC, Huron Consulting Group Inc., 52 Limited, Addison Professional, etc.	Chicago, IL	December 6, 2017.
94,394	Dormakaba USA Inc., Dormakaba Holdings AG, Lodging Division, Aerotek and Finders.	Madison Heights, MI	December 10, 2017.
94,401	Western Union LLC, The Western Union Company, Customer Care Center of Excellence, etc.	Englewood, CO	December 12, 2017.

TA–W No.	Subject firm	Location	Impact date
94,403	Allscripts Healthcare, LLC, Data Conversion Team, Allscripts Healthcare Solutions, Inc.	Chicago, IL	December 16, 2017.

The following certifications have been issued. The requirements of Section 222(b) (supplier to a firm whose workers are certified eligible to apply for TAA) of the Trade Act have been met.

TA–W No.	Subject firm	Location	Impact date
93,850	Swanson Manufacturing Services Inc., Swanson Industries Inc	Morgantown, WV	May 24, 2017.
93,881	Commercial Envelope Manufacturing Company, Inc., Cenveo Worldwide Limited, Manpower and Express Employment Professionals.	Altoona, PA	June 6, 2017.
94,059	West Virginia University Research Corporation, West Virginia University Clinical & Pharmacologic Research Center, etc.	Morgantown, WV	August 10, 2017.
94,152	MOL Information Technology America, Inc., America Office, MOL America, Inc., MOL Americas Holding, Inc., etc.	Woodbridge, NJ	September 12, 2017.
94,315	Trigo-SCSI, Caterpillar, PrideStaff	Joliet, IL	November 6, 2017.

The following certifications have been issued. The requirements of Section 222(e) (firms identified by the International Trade Commission) of the Trade Act have been met.

TA–W No.	Subject firm	Location	Impact date
94,090	Granges Americas, Inc., Newport Facility, Granges AB	Newport, AR	April 13, 2017.
94,147	Handi-Foil Corporation, Elite Staffing, Midway Staffing, Ron's Staffing Services, The Xcel Group.	Wheeling, IL	April 13, 2017.
94,158	Siskiyou Forest Products, Personnel Preference	Anderson, CA	December 28, 2016.
94,159	Trinity River Lumber Company	Weaverville, CA	December 28, 2016.
94,200	Biewer Lumber, Northern Staffing Services, PMP Personnel Services	McBain, MI	December 28, 2016.
94,200A	Biewer Lumber	Lake City, MI	December 28, 2016.
94,204	Hero BX Alabama LLC, Black Interests LP	Moundville, AL	December 28, 2016.
94,250	Bell-Carter Foods LLC, Corporate, Marathon Staffing and Express Professionals, etc.	Corning, CA	July 31, 2017.
94,250A	Bell-Carter Foods LLC, Corporate, Marathon Staffing and Express Professionals, etc.	Walnut Creek, CA	July 31, 2017.
94,254	McWane, Inc., McWane Industries, AB&I, AB&I Foundry	Oakland, CA	August 28, 2017.
94,255	Musco Olive Products, Inc., Full Steam Staffing, Abel Mendoza, Accountemps-Robert Half, etc.	Tracy, CA	July 31, 2017.
94,273	MBI (Metal Box International), Edsal Manufacturing Company, Inc	Franklin Park, IL	January 22, 2017.
94,274	Canfor Southern Pine	Fulton, AL	December 28, 2016.
94,287	Seneca Sawmill Company	Eugene, OR	December 28, 2016.
94,302	Seneca Sawmill Company	Noti, OR	December 28, 2016.
94,306	Stimson Lumber	Clatskanie, OR	December 28, 2016.
94,307	Stimson Lumber Company	Gaston, OR	December 28, 2016.
94,308	Stimson Lumber Company	Tillamook, OR	December 28, 2016.
94,320	Rosboro, LLC	Springfield, OR	December 28, 2016.

Negative Determinations for Worker Adjustment Assistance

In the following cases, the investigation revealed that the eligibility criteria for TAA have not been met for the reasons specified.

The investigation revealed that the criteria under paragraphs(a)(2)(A) (increased imports), (a)(2)(B) (shift in production or services to a foreign country or acquisition of articles or services from a foreign country), (b)(2) (supplier to a firm whose workers are certified eligible to apply for TAA or downstream producer to a firm whose workers are certified eligible to apply for TAA), and (e) (International Trade Commission) of section 222 have not been met.

TA–W No.	Subject firm	Location	Impact date
93,799	Toys R Us—Delaware, Inc., Toys R Us, Inc	Merrillville, IN.	
93,819	Avid Technology Inc., Avid Auto LLC, Avid CV LLC, Avid System Inc., Avid Technology, etc.	Burlington, MA.	
93,853	Hitachi Consulting Corporation	Denver, CO.	
93,864A	Global Digital Media Xchange LLC, Deluxe Entertainment Services Group Inc., Deluxe Shared Services Inc.	Los Angeles, CA.	
93,965	Aryzta, LLC, Aryzta AG	Vernon, CA.	
94,124	Byer California, Priority Workforce Inc	Los Angeles, CA.	
94,131	Quad Graphics Inc., Universal Temporary Services Inc	Hazelton, PA.	

TA–W No.	Subject firm	Location	Impact date
94,184	Ames Textiles, Inc., 3A Throwing	Christiansburg, VA.	
94,205	Sprint Enterprise and Government, Wireline and Wireless Collections	Irving, TX.	
94,207	Alsco Industries, Inc., Expert Staffing, CoWorx Staffing Services	Sturbridge, MA.	
94,218	Caliber Home Loans, Inc	Fairfax, VA.	
94,224	Bank of America, Merril Lynch, Pierce, Fenner, and Smith, Inc	Jersey City, NJ.	
94,243	Indivior, Inc., Support Services, Xcenda, Deloitte Consulting LLP, Ernst & Young, etc.	North Chesterfield, VA.	
94,333	Fabric Depot	Portland, OR.	
94,342	Wireway/Husky Corporation, Husky Rack & Wire	Sterling, MA	

Determinations Terminating Investigations of Petitions for Trade Adjustment Assistance

After notice of the petitions was published in the **Federal Register** and on the Department's website, as required by Section 221 of the Act (19 U.S.C. 2271), the Department initiated investigations of these petitions.

The following determinations terminating investigations were issued because the petitioner has requested that the petition be withdrawn.

TA–W No.	Subject firm	Location	Impact date
94,135	QBE Americas, Inc., Lender Placed Insurance Division	Moon Township, PA.	
94,247	TaskEasy	Salt Lake City, UT.	
94,268	T. R. Miller Mill Co., Inc	Brewton, AL.	
94,338	Simmons Bedding Company	Fredericksburg, VA.	

The following determinations terminating investigations were issued because the worker group on whose behalf the petition was filed is covered under an existing certification.

TA–W No.	Subject firm	Location	Impact date
94,225	MCPC Inc., Paradigm Infotech, Bay Area Techworkers, Quest Global Services, General Electric Company, GE Transportation Parts, Transportation, etc.	Erie, PA.	
94,289	Health Care Service Corporation (HCSC), Remote Workers from Virginia Reporting to Oklahoma City, Oklahoma.	Oklahoma City, OK.	
94,300	Ericsson, Inc., Market Area North America Digital Services (MANA DS) Division.	Plano, TX.	
94,300A	Ericsson, Inc., Market Area North America Digital Services (MANA DS) Division.	Richardson, TX.	
94,300B	Ericsson, Inc., Market Area North America Digital Services (MANA DS) Division.	Irving, TX.	
94,301	Ericsson, Inc., BNEW SAN SEU UCC Division, BNEW GSO SEU HES PSE2 CS Group.	Plano, TX.	

I hereby certify that the aforementioned determinations were issued during the period of *December 1, 2018 through December 31, 2018.* These determinations are available on the Department's website *https://www.doleta.gov/tradeact/taa/taa_search_form.cfm* under the searchable listing determinations or by calling the Office of Trade Adjustment Assistance toll free at 888–365–6822.

Signed at Washington, DC, this 8th day of January 2019.

Hope D. Kinglock,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2019–05054 Filed 3–18–19; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 (''the Act'') and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, no later than March 29, 2019.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 29, 2019.

The petitions filed in this case are available for inspection at the Office of

the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, Room N–5428, 200 Constitution Avenue NW, Washington, DC 20210.

Signed at Washington, DC, this 8th day of January 2019.

Hope D. Kinglock,

Certifying Officer, Office of Trade Adjustment Assistance.

Appendix

62 TAA PETITIONS INSTITUTED BETWEEN 12/1/18 AND 12/31/18

TA–W	Subject firm (petitioners)	Location	Date of institution	Date of petition
94372	Alphi Manufacturing LLC (State/One-Stop)	Jonesville, MI	12/03/18	11/30/18
94373	Bend Roof Truss (State/One-Stop)	Bend, OR	12/03/18	11/30/18
94374	DXC Technology (State/One-Stop)	Tysons, VA	12/03/18	11/29/18
94375	JPMChase (State/One-Stop)	Jersey City, NJ	12/03/18	11/30/18
94376	Ozonics, LLC (State/One-Stop)	Mason City, IA	12/03/18	11/30/18
94377	Baker Manufacturing Company, Inc. (Company)	Pineville, LA	12/04/18	12/03/18
94378	Inifinite (formerly L-Com) (State/One-Stop)	North Andover, MA	12/04/18	11/30/18
94379	Tech Mahindra Network Services, Inc. (State/One-Stop)	Overland Park, KS	12/04/18	12/03/18
94380	Payless (State/One-Stop)	Topeka, KS	12/04/18	12/03/18
94381	Qualcomm Technolgies, Inc. (State/One-Stop)	San Diego, CA	12/04/18	12/03/18
94382	ADC Die Casting LLC (State/One-Stop)	Elk Grove Village, IL	12/06/18	12/05/18
94383	Chaucer Foods, Inc. (State/One-Stop)	Forest Grove, OR	12/06/18	12/05/18
94384	Ichor Tualatin (formerly Cal-Weld) (State/One-Stop)	Tualatin, OR	12/06/18	12/05/18
94385	Openlink Financial (State/One-Stop)	New York City, NY	12/06/18	12/04/18
94386	Progress Rail Service (State/One-Stop)	Gering, NE	12/06/18	12/04/18
94387	South Coast Lumber (State/One-Stop)	Brookings, OR	12/06/18	12/05/18
94388	Halliburton Energy Services, Inc. (Finance and Accounting Depts.) (State/One-Stop).	Duncan, OK	12/07/18	12/06/18
94389	Huron Consulting Services LLC (State/One-Stop)	Chicago, IL	12/07/18	12/06/18
94390	Teradata (Workers)	Dayton, OH	12/07/18	12/07/18
94391	CA Technologies (State/One-Stop)	New York, NY	12/10/18	12/07/18
94392	Essity Professional Hygiene NA LLC (Union)	Bellemont, AZ	12/10/18	12/07/18
94393	Grays Harbor Community Hospital (Workers)	Aberdeen, WA	12/10/18	11/28/18
94394	Dormakaba USA Inc. (Company)	Madison Heights, MI	12/11/18	12/10/18
94395	nThrive (Workers)	Alpharetta, GA	12/11/18	12/10/18
94396	ABB (Baldor Electric Co.) (State/One-Stop)	Clarksville, AR	12/12/18	12/11/18
94397	Faurecia (Union)	Dexter, MO	12/12/18	11/15/18
94398	Mondi Bags USA, LLC (Union)	Arcadia, LA	12/12/18	12/11/18
94399	Windstream Communications (State/One-Stop)	Fairport, NY	12/12/18	12/11/18
94400	Qualcomm Technolgies, Inc. (State/One-Stop)	San Diego, CA	12/13/18	12/12/18
94401	Western Union LLC (State/One-Stop)	Englewood, CO	12/13/18	12/12/18
94402	Globe Metallurgical, Inc. (Company)	Selma, AL	12/14/18	12/13/18
94403	Allscripts Healthcare, LLC (Workers)	Chicago, IL	12/17/18	12/16/18
94404	LEDVANCE LLC (Company)	Versailles, KY	12/17/18	12/14/18
94405	Milco Industries, Inc., Apparel Division (Company)	Bloomsburg, PA	12/18/18	12/17/18
94406	ZF Chassis (State/One-Stop)	Chicago, IL	12/18/18	12/17/18
94407	Core Pipe Products, Inc. (State/One-Stop)	Carol Stream, IL	12/19/18	12/19/18
94408	Smart Apparel US a Sunrise Group Company (State/One-Stop)	Frisco, TX	12/19/18	12/18/18
94409	Verizon Data Services (State/One-Stop)	Temple Terrace, FL	12/19/18	12/18/18
94410	Arrow Electronics Inc. (Workers)	Porterville, CA	12/20/18	12/19/18
94411	Bayer Crop Science LP (Company)	Institute, WV	12/20/18	12/18/18
94412	Carbonite (State/One-Stop)	Lewiston, ME	12/20/18	12/19/18
94413	CITI (State/One-Stop)	Uniondale, NY	12/20/18	12/19/18
94414	CMG Mortgage DBA CMG Financial (State/One-Stop)	Lake Oswego, OR	12/20/18	12/19/18
94415	Mattex Group, LLC (Company)	Chatsworth, GA	12/20/18	12/19/18
94416	New Era Cap Company, Inc. (Union)	Derby, NY	12/20/18	12/20/18
94417	Parthenon Metal Works Fabrication Plant (State/One-Stop)	LaVergne, TN	12/20/18	12/19/18
94418	Valente Global (State/One-Stop)	Bellevue, WA	12/20/18	12/18/18
94419	Blackhawk Network (Workers)	Lewisville, TX	12/21/18	12/20/18
94420	Core Health & Fitness, LLC (State/One-Stop)	Independence, VA	12/21/18	12/20/18
94421	HSBC Technology and Services, USA (State/One-Stop)	Depew, NY	12/21/18	12/20/18
94422	Textron (Dixie Chopper) (State/One-Stop)	Fillmore, IN	12/21/18	12/20/18
94423	Allstate Insurance Lincoln Financial Services (State/One-Stop)	Lincoln, NE	12/26/18	12/26/18
94424	CWP Cabinetry/Custom Wood Products Cabinetry (State/One-Stop).	Roanoke, VA	12/26/18	12/20/18
94425	Deluxe Digital Media (State/One-Stop)	Burbank, CA	12/26/18	12/21/18
94426	Excelitas Technologies (Company)	Wheeling, IL	12/26/18	12/21/18
94427	General Motors (State/One-Stop)	Warren, OH	12/26/18	12/21/18
94428	Nestle Group (Workers)	Red Boiling Springs, TN	12/26/18	12/21/18
94429	Thomson Reuters Corporation (State/One-Stop)	Lake Oswego, OR	12/26/18	12/21/18
94430	Toys R Us (State/One-Stop)	Omaha, NE	12/27/18	12/26/18
94431	Crabtree & Evelyn, Ltd., Harvey Supply Chain International LLC (State/One-Stop).	Woodstock, CT	12/31/18	12/28/18

62 TAA PETITIONS INSTITUTED BETWEEN 12/1/18 AND 12/31/18—Continued

TA–W	Subject firm (petitioners)	Location	Date of institution	Date of petition
94432	Radisson Hotel Group—Customer Care, Reservation, and Data Entry (State/One-Stop).	Omaha, NE	12/31/18	12/28/18
94433	Tangoe, Inc. (Company)	Parsippany, NJ	12/31/18	12/28/18

[FR Doc. 2019–05055 Filed 3–18–19; 8:45 am]
BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

Post-Initial Determinations Regarding Eligibility To Apply for Trade Adjustment Assistance

In accordance with Sections 223 and 284 (19 U.S.C. 2273 and 2395) of the Trade Act of 1974 (19 U.S.C. 2271, *et seq.*) (''Act''), as amended, the Department of Labor herein presents Notice of Affirmative Determinations Regarding Application for Reconsideration, summaries of Negative Determinations Regarding Applications for Reconsideration, summaries of Revised Certifications of Eligibility, summaries of Revised Determinations (after Affirmative Determination Regarding Application for Reconsideration), summaries of Negative Determinations (after Affirmative Determination Regarding Application for Reconsideration), summaries of Revised Determinations (on remand from the Court of International Trade), and summaries of Negative Determinations (on remand from the Court of International Trade) regarding eligibility to apply for trade adjustment assistance under Chapter 2 of the Act (''TAA'') for workers by (TA–W) number issued during the period of *December 1st 2018 through December 31st 2018* Post-initial determinations are issued after a petition has been certified or denied. A post-initial determination may revise a certification, or modify or affirm a negative determination.

Summary of Statutory Requirement

(This Notice primarily follows the language of the Trade Act. In some places however, changes such as the inclusion of subheadings, a reorganization of language, or ''and,'' ''or,'' or other words are added for clarification.)

Section 222(a)—Workers of a Primary Firm

In order for an affirmative determination to be made for workers of a primary firm and a certification issued regarding eligibility to apply for TAA, the group eligibility requirements under Section 222(a) of the Act (19 U.S.C. 2272(a)) must be met, as follows:

(1) The first criterion (set forth in Section 222(a)(1) of the Act, 19 U.S.C. 2272(a)(1)) is that a significant number or proportion of the workers in such workers' firm (or ''such firm'') have become totally or partially separated, or are threatened to become totally or partially separated; AND (2(A) or 2(B) below)

(2) The second criterion (set forth in Section 222(a)(2) of the Act, 19 U.S.C. 2272(a)(2)) may be satisfied by either (A) the Increased Imports Path, or (B) the Shift in Production or Services to a Foreign Country Path/Acquisition of Articles or Services from a Foreign Country Path, as follows:

(A) Increased Imports Path:

(i) The sales or production, or both, of such firm, have decreased absolutely; AND (ii and iii below)

(ii) (I) imports of articles or services like or directly competitive with articles produced or services supplied by such firm have increased; OR

(II)(aa) imports of articles like or directly competitive with articles into which one or more component parts produced by such firm are directly incorporated, have increased; OR

(II)(bb) imports of articles like or directly competitive with articles which are produced directly using the services supplied by such firm, have increased; OR

(III) imports of articles directly incorporating one or more component parts produced outside the United States that are like or directly competitive with imports of articles incorporating one or more component parts produced by such firm have increased; AND

(iii) the increase in imports described in clause (ii) contributed importantly to such workers' separation or threat of separation and to the decline in the sales or production of such firm; OR

(B) Shift in Production or Services to a Foreign Country Path OR Acquisition of Articles or Services from a Foreign Country Path:

(i)(I) There has been a shift by such workers' firm to a foreign country in the production of articles or the supply of services like or directly competitive with articles which are produced or services which are supplied by such firm; OR

(II) such workers' firm has acquired from a foreign country articles or services that are like or directly competitive with articles which are produced or services which are supplied by such firm; AND

(ii) the shift described in clause (i)(I) or the acquisition of articles or services described in clause (i)(II) contributed importantly to such workers' separation or threat of separation.

Section 222(b)—Adversely Affected Secondary Workers

In order for an affirmative determination to be made for adversely affected secondary workers of a firm and a certification issued regarding eligibility to apply for TAA, the group eligibility requirements of Section 222(b) of the Act (19 U.S.C. 2272(b)) must be met, as follows:

(1) A significant number or proportion of the workers in the workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated; AND

(2) the workers' firm is a supplier or downstream producer to a firm that employed a group of workers who received a certification of eligibility under Section 222(a) of the Act (19 U.S.C. 2272(a)), and such supply or production is related to the article or service that was the basis for such certification (as defined in subsection 222(c)(3) and (4) of the Act (19 U.S.C. 2272(c)(3) and (4)); AND

(3) either—

(A) the workers' firm is a supplier and the component parts it supplied to the firm described in paragraph (2) accounted for at least 20 percent of the production or sales of the workers' firm; OR

(B) a loss of business by the workers' firm with the firm described in paragraph (2) contributed importantly to the workers' separation or threat of separation determined under paragraph (1).

Section 222(e)—Firms Identified by the International Trade Commission

In order for an affirmative determination to be made for adversely affected workers in firms identified by the International Trade Commission and a certification issued regarding eligibility to apply for TAA, the group eligibility requirements of Section 222(e) of the Act (19 U.S.C. 2272(e)) must be met, by following criteria (1), (2), and (3) as follows:

(1) The workers' firm is publicly identified by name by the International Trade Commission as a member of a domestic industry in an investigation resulting in—

(A) an affirmative determination of serious injury or threat thereof under section 202(b)(1) of the Act (19 U.S.C. 2252(b)(1)); OR

(B) an affirmative determination of market disruption or threat thereof under section 421(b)(1)of the Act (19 U.S.C. 2436(b)(1)); OR

(C) an affirmative final determination of material injury or threat thereof under section 705(b)(1)(A) or 735(b)(1)(A) of the Tariff Act of 1930 (19 U.S.C. 1671d(b)(1)(A) and 1673d(b)(1)(A)); AND

(2) the petition is filed during the 1-year period beginning on the date on which—

(A) a summary of the report submitted to the President by the International Trade Commission under section 202(f)(1) of the Trade Act (19 U.S.C. 2252(f)(1)) with respect to the affirmative determination described in paragraph (1)(A) is published in the **Federal Register** under section 202(f)(3) (19 U.S.C. 2252(f)(3)); OR

(B) notice of an affirmative determination described in subparagraph (B) or (C) of paragraph (1) is published in the **Federal Register**; AND

(3) the workers have become totally or partially separated from the workers' firm within—

(A) the 1-year period described in paragraph (2); OR

(B) notwithstanding section 223(b) of the Act (19 U.S.C. 2273(b)), the 1-year period preceding the 1-year period described in paragraph (2).

Revised Certifications of Eligibility

The following revised certifications of eligibility to apply for TAA have been issued. The date following the company name and location of each determination references the impact date for all workers of such determination, and the reason(s) for the determination.

The following revisions have been issued.

TA–W No.	Subject firm	Location	Impact date	Reason(s)
94,082	Health Care Service Corporation (HCSC)	Chicago, IL	8/22/2017	Worker Group Clarification.
94,082A	Health Care Service Corporation (HCSC)	Oklahoma City, OK	8/22/2017	Worker Group Clarification.
92,846	Ericsson, Inc	Plano, TX	4/26/2016	Worker Group Clarification.
92,846A	Ericsson, Inc	Richardson, TX	4/26/2016	Worker Group Clarification.
92,846B	Ericsson, Inc	Irving, TX	4/26/2016	Worker Group Clarification.
93,099	GE MDS, LLC	Rochester, NY	8/29/2016	Worker Group Clarification.
93,582	Ericsson, Inc	Plano, TX	2/27/2017	Worker Group Clarification.
93,917	General Electric Company	Erie, PA	6/24/2018	Technical Error.
93,917A	Association of Corporate Counsel America Chicago Chapter, Capgemini, etc.	Erie, PA	6/22/2017	Technical Error.

Revised Determinations (On Remand From the Court of International Trade)

The following revised determinations on remand, certifying eligibility to apply for TAA, have been issued. The date following the company name and location of each determination references the impact date for all workers of such determination and the reason(s) for the determination.

The following revised determinations on remand, certifying eligibility to apply for TAA, have been issued. The requirements of Section 222(a)(2)(A) (Increased Imports Path) of the Trade Act have been met.

TA–W No.	Subject firm	Location	Impact date
92,518	Fifth Third Bank	Coral Gables, FL	12/21/2015

Signed at Washington, DC, this 8th day of January 2019.

Hope D. Kinglock,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2019–05057 Filed 3–18–19; 8:45 am]

BILLING CODE 4510–FN–P

NATIONAL SCIENCE FOUNDATION

Committee Management Renewal

The NSF management officials having responsibility for the advisory committee listed below has determined that renewing this committee for another two years is necessary and in the public interest in connection with the performance of duties imposed upon the Director, National Science Foundation (NSF), by 42 U.S.C. 1861 *et seq.* This determination follows consultation with the Committee Management Secretariat, General Services Administration.

Committee

Advisory Committee for Polar Programs, #1130

Effective date for renewal is March 14, 2019. For more information, please contact Crystal Robinson, NSF, at (703) 292–8687.

Dated: March 14, 2019.

Crystal Robinson,

Committee Management Officer.

[FR Doc. 2019–05172 Filed 3–18–19; 8:45 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2019–0001]

Sunshine Act Meetings

TIME AND DATE: Weeks of March 18, 25, April 1, 8, 15, 22, 2019.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

MATTERS TO BE CONSIDERED:

Week of March 18, 2019

Wednesday, March 20, 2019

10:00 a.m. Meeting with the Organization of Agreement States and the Conference of Radiation Control Program Directors (Public Meeting); (Contact: Paul Michalak: 301–415–5804)

This meeting will be webcast live at the Web address—*http://www.nrc.gov/.*

Week of March 25, 2019—Tentative

Thursday, March 28, 2019

9:00 a.m. Transformation at the NRC: Innovation (Public Meeting); (Contact: June Cai: 301–415–1771)

This meeting will be webcast live at the Web address—*http://www.nrc.gov/.*

Week of April 1, 2019—Tentative

Thursday, April 4, 2019

10:00 a.m. Meeting with the Advisory Committee on the Medical Uses of Isotopes (Public Meeting); (Contact: Kellee Jamerson: 301–415–7408)

This meeting will be webcast live at the Web address—*http://www.nrc.gov/.*

Week of April 8, 2019—Tentative

There are no meetings scheduled for the week of April 8, 2019.

Week of April 15, 2019—Tentative

There are no meetings scheduled for the week of April 15, 2019.

Week of April 22, 2019—Tentative

Tuesday, April 23, 2019

10:00 a.m. Strategic Programmatic Overview of the Fuel Facilities and the Nuclear Materials Users Business Lines (Public Meeting); (Contact: Paul Michalak: 301–415–5804)

CONTACT PERSON FOR MORE INFORMATION: For more information or to verify the status of meetings, contact Denise McGovern at 301–415–0681 or via email at *Denise.McGovern@nrc.gov.* The schedule for Commission meetings is subject to change on short notice.

The NRC Commission Meeting Schedule can be found on the internet at: *http://www.nrc.gov/public-involve/public-meetings/schedule.html.*

The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings, or need this meeting notice or the transcript or other information from the public meetings in another format (*e.g.,* braille, large print), please notify Kimberly Meyer-Chambers, NRC Disability Program Manager, at 301–287–0739, by videophone at 240–428–3217, or by email at *Kimberly.Meyer-Chambers@nrc.gov.* Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

Members of the public may request to receive this information electronically. If you would like to be added to the distribution, please contact the Nuclear Regulatory Commission, Office of the Secretary, Washington, DC 20555 (301–415–1969), or by email at *Wendy.Moore@nrc.gov.*

Dated at Rockville, Maryland, this 15th day of March, 2019.

For the Nuclear Regulatory Commission.

Denise L. McGovern,

Policy Coordinator, Office of the Secretary.

[FR Doc. 2019–05325 Filed 3–15–19; 4:15 pm]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Meeting of the Advisory Committee on Reactor Safeguards (ACRS) Subcommittee on Digital I&C Systems

The ACRS Subcommittee on Digital I&C Systems will hold a meeting on March 20, 2019, at 11545 Rockville Pike, Room T–3D50, Rockville, Maryland 20852.

The meeting will be open to public attendance with the exception of portions that may be closed to protect information that is proprietary pursuant to 5 U.S.C. 552b(c)(4). The agenda for the subject meeting shall be as follows:

Wednesday, March 20, 2019—1:00 p.m. Until 5:00 p.m.

The Subcommittee will review the Cybersecurity Oversight program to date and lessons learned from the staff's inspections. The Subcommittee will hear presentations by and hold discussions with the NRC staff, and other interested persons regarding this matter. The Subcommittee will gather information, analyze relevant issues and facts, and formulate proposed positions and actions, as appropriate, for deliberation by the Full Committee.

Members of the public desiring to provide oral statements and/or written comments should notify the Designated Federal Official (DFO), Christina Antonescu (Telephone 301–415–6792 or Email: *Christina.Antonescu@nrc.gov*) five days prior to the meeting, if possible, so that appropriate arrangements can be made. Thirty-five hard copies of each presentation or handout should be provided to the DFO thirty minutes before the meeting. In addition, one electronic copy of each presentation should be emailed to the DFO one day before the meeting. If an electronic copy cannot be provided within this timeframe, presenters should provide the DFO with a CD containing each presentation at least thirty minutes before the meeting. Electronic recordings will be permitted only during those portions of the meeting that are open to the public. The public bridgeline number for the meeting is 866–822–3032, passcode 8272423. Detailed procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on December 7, 2018 (83 FR 26506).

Detailed meeting agendas and meeting transcripts are available on the NRC website at *http://www.nrc.gov/reading-rm/doc-collections/acrs.* Information regarding topics to be discussed, changes to the agenda, whether the meeting has been canceled or rescheduled, and the time allotted to present oral statements can be obtained from the website cited above or by contacting the identified DFO. Moreover, in view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with these references if such rescheduling would result in a major inconvenience.

If attending this meeting, please enter through the One White Flint North Building, 11555 Rockville Pike, Rockville, Maryland. After registering with Security, please contact Paula Dorm (Telephone 301–415–7799) to be escorted to the meeting room.

Dated: March 13, 2019.

Lawrence Burkhart,

Chief, Technical Support Branch, Advisory Committee on Reactor Safeguards.

[FR Doc. 2019–05077 Filed 3–18–19; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF PERSONNEL MANAGEMENT

Privacy Act of 1974; Computer Matching Program Between the Office of Personnel Management and Social Security Administration

AGENCY: Office of Personnel Management (OPM).

ACTION: Notice of a re-established matching program.

SUMMARY: Pursuant to the Privacy Act of 1974, as amended by the Computer Matching and Privacy Protection Act of 1988 and the Computer Matching and Privacy Protections Amendment of 1990 (Privacy Act), and Office of Management and Budget (OMB) guidance on the conduct of matching programs, notice is hereby given of the re-establishment of a matching program between the Office of Personnel Management (OPM) and the Social Security Administration (SSA) (Computer Matching Agreement 1018).

DATES: Please submit comments on or before April 18, 2019. The matching program will begin on April 18, 2019 unless comments have been received from interested members of the public that require modification and republication of the notice. The matching program will continue for 18 months from the beginning date and may be extended an additional 12 months if the respective agency Data Integrity Boards determine that the conditions specified in 5 U.S.C. 552a(o)(2)(D) have been met.

ADDRESSES: You may submit comments via mail to: Deon Mason, Chief, Business Services, Retirement Management and Services, Retirement Services, Office of Personnel Management, Room 3316–G, 1900 E Street NW, Washington, DC 20415, or via email at *Deon.Mason@opm.gov.* You may also submit comments, identified by docket number and title, at the Federal Rulemaking Portal: *http://www.regulations.gov* by following the instructions for submitting comments.

All submissions received must include the agency name and docket number for this document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: Bernard A. Wells III, Retirement Services, Office of Personnel Management, at (202) 606–2730.

SUPPLEMENTARY INFORMATION: In accordance with the Privacy Act of 1974, as amended by the Computer Matching and Privacy Protection Act of 1988 and the Computer Matching and Privacy Protections Amendment of 1990 (Privacy Act), and Office of Management and Budget (OMB) guidance on the conduct of matching programs, including OMB Final Guidance Interpreting the Provisions of Public Law 100–53 (published in the **Federal Register** on June 19, 1989 (54 FR 25818) and OMB Circular A–108, notice is hereby given of the re-establishment of a matching program between the Office of Personnel Management (OPM) and the Social Security Administration (SSA). This matching program, Computer Matching Agreement 1018, is being re-established to redetermine and recompute the benefits of certain annuitants and survivors whose computations are based, in part, on military service performed after December 1956 under the Civil Service Retirement System (CSRS), and of certain annuitants and survivors whose annuity computation under the Federal Employees Retirement System (FERS) have a CSRS component.

Participating Agencies: OPM and SSA.

Authority for Conducting the Matching Program: OPM's authority to participate in this matching program derives from 5 U.S.C. 8332(j) and 8422(e)4 SSA is authorized to participate in this matching program pursuant to 42 U.S.C. 1306.

Purpose(s): The purpose of this matching program is to set forth the terms, conditions and safeguards under which the Social Security Administration (SSA) will disclose tax return and Social Security benefit information to the Office of Personnel Management. OPM will use the disclosed information to redetermine and recompute the benefits of certain annuitants and survivors whose computations are based, in part, on military service performed after December 1956 under the Civil Service Retirement System and of certain annuitants and survivors whose annuity computation under the Federal Employees Retirement System (FERS) have a CSRS component.

Categories of Individuals: The individuals about whom OPM maintains information that are involved in this matching program include retired Federal employees and survivors whose annuity computations are based, in part, on military service performed after December 31, 1956 and who also receive benefits from SSA.

Category of Records: The categories of records involved in the data match from OPM include information about those individuals who have applied for or are eligible for both OPM and SSA benefits as described above. OPM will provide name, SSN, date of birth, alleged dates of military service, alleged service branch, and in survivor cases, date of death of the individuals for whom OPM requests information. These elements will be matched against SSA records. SSA will provide tax information (amount of earnings and military wages for the relevant time period and Social Security benefit information, the SSN, Social Security monthly benefit amount and the amount of the SSA benefit attributable to post-1956 military service.

System(s) of Records: OPM's system of records involved in this matching program is designated OPM/Central-1, Civil Service Retirement and Insurance Records 73 FR 15013 (March 20, 2008), as amended 80 FR 74815 (November 30, 2015).

SSA's systems of records involved in this matching program is the Master Beneficiary Record (MBR), 60–0090, 71 FR 1826 (Jan. 11, 2006), as amended at 72 FR 69723 (Dec. 10, 2007), 78 FR 40542 (July 5, 2013) and 83 FR 31250–31251 (July 3, 2018). Additionally SSA will disclose data from the MEF file (60–0059, Earnings Recording and Self-Employment Income system) last fully published on January 11, 2006, at 71 FR 1819 and amended on July 5, 2013 at 78 FR 40542 and from the ''1086'' microfilm file, published on January 11, 2006 at 71 FR 1796.

Alexys Stanley,

Regulatory Affairs Analyst.

[FR Doc. 2019–05099 Filed 3–18–19; 8:45 am]

BILLING CODE 6325–38–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–85307; File No. SR–ISE–2019–03]

Self-Regulatory Organizations; Nasdaq ISE, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Market Maker Plus Program

March 13, 2019.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on February 27, 2019, Nasdaq ISE, LLC (''ISE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the Market Maker Plus program under Options 7, Section 3.

While these amendments are effective upon filing, the Exchange has designated the proposed amendments to be operative on March 1, 2019.

The text of the proposed rule change is available on the Exchange's website at *http://ise.cchwallstreet.com/,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to provide a supplemental rebate in addition to the linked maker rebate for SPY, QQQ, and IWM, as described in detail below.

Background

Market Maker Plus

As set forth in Section 3 of the Pricing Schedule, the Exchange operates a Market Maker Plus program for regular orders in Select Symbols [3] where Market Makers [4] that contribute to market quality by maintaining tight markets are eligible for enhanced rebates. Market Makers are evaluated each trading day for the percentage of time spent on the National Best Bid or National Best Offer (''NBBO'') for qualifying series that expire in two successive thirty calendar day periods beginning on that trading day. A Market Maker Plus is a Market Maker who is on the NBBO a specified percentage of the time on average for the month based on daily performance in the qualifying series for each of the two successive periods described above. Qualifying series are series trading between $0.03 and $3.00 (for options whose underlying stock's previous trading day's last sale price was less than or equal to $100) and between $0.10 and $3.00 (for options whose underlying stock's previous trading day's last sale price was greater than $100) in premium. If a Market Maker would qualify for a different Market Maker Plus tier in each of the two successive periods described above, then the lower of the two Market Maker Plus tier rebates shall apply to all contracts.[5] These general qualification requirements will remain unchanged with the amendments to the applicable Market Maker Plus rebates described in this proposed rule change.

Market Maker orders in Select Symbols are charged a maker fee of $0.11 per contract; [6] provided that Market Makers that qualify for Market Maker Plus will not pay this fee if they meet the applicable tier thresholds set forth in the table below, and will instead receive the below maker rebates based on the applicable tier for which they qualify.[7]

SELECT SYMBOLS OTHER THAN SPY, QQQ, AND IWM

Market Maker Plus tier (specified percentage)	Maker rebate
Tier 1 (80% to less than 85%)	($0.15)
Tier 2 (85% to less than 95%)	($0.18)
Tier 3 (95% or greater)	($0.22)

SPY, QQQ, and IWM

Market Maker Plus tier (specified percentage)	Regular Maker rebate	Linked Maker rebate
Tier 1 (70% to less than 80%)	($0.00)	N/A
Tier 2 (80% to less than 85%)	($0.18)	($0.15)
Tier 3 (85% to less than 90%)	($0.22)	($0.19)
Tier 4 (90% or greater)	($0.26)	($0.23)

To encourage Market Makers to maintain quality markets in SPY, QQQ, and IWM in particular, members that maintain tight markets in those symbols are eligible for higher regular maker rebates and may also be eligible for linked maker rebates, as shown in the table above. Specifically, the following symbols are linked for purposes of the linked maker rebate: (1) SPY and QQQ, and (2) SPY and IWM. Market Makers that qualify for Market Maker Plus Tiers 2–4 above for executions in SPY, QQQ, and IWM may be eligible for a linked maker rebate in a linked symbol in addition to the regular maker rebate for the applicable tier. The linked maker rebate applies to executions in SPY,

[3] ''Select Symbols'' are options overlying all symbols listed on the Nasdaq ISE that are in the Penny Pilot Program.

[4] The term ''Market Makers'' refers to ''Competitive Market Makers'' and ''Primary Market Makers'' collectively. *See* ISE Rule 100(a)(32).

[5] Market Makers may enter quotes in a symbol using one or more unique, exchange assigned identifiers—*i.e.,* badge/suffix combinations. Market Maker Plus status is calculated independently based on quotes entered in a symbol for each of the Market Maker's badge/suffix combinations, and the highest tier achieved for any badge/suffix combination quoting that symbol applies to executions across all badge/suffix combinations that the member uses to trade in that symbol. A Market Maker's worst quoting day each month for each of the two successive periods described above, on a per symbol basis, will be excluded in calculating whether a Market Maker qualifies for this rebate.

[6] This fee also applies to Market Maker orders sent to the Exchange by Electronic Access Members.

[7] A $0.15 per contract fee applies instead of the applicable fee or rebate when trading against Priority Customer complex orders that leg into the regular order book. There will be no fee charged or rebate provided when trading against non-Priority Customer complex orders that leg into the regular order book.

QQQ, and IWM if the Market Maker does not achieve the applicable tier in that symbol but achieves the tier (*i.e.,* any of the Market Maker Plus Tiers 2–4) for any badge/suffix combination in the other linked symbol, in which case the higher tier achieved applies to both symbols. If a Market Maker would qualify for a linked maker rebate in SPY based on the tier achieved in QQQ and the tier achieved in IWM, then the higher of the two linked maker rebates will be applied to SPY. The regular maker rebate will be provided in the symbol that qualifies the Market Maker for the higher tier based on percentage of time at the NBBO.[8]

Priority Customer Complex Order Rebates

The Exchange currently has a pricing structure in place that provides rebates to Priority Customer[9] complex orders in order to encourage members to bring that order flow to the Exchange. The Exchange provides these rebates to members that achieve Priority Customer Complex Tiers[10] in Select Symbols and Non-Select Symbols[11] (other than NDX, NQX or MNX).[12] All complex order volume executed on the Exchange, including volume executed by Affiliated Members,[13] is included in the volume calculation, except for volume executed as Crossing Orders[14] and Responses to Crossing Orders.[15] Affiliated Entities[16] may also aggregate their complex order volume for purposes of qualifying Appointed OFPs for these Priority Customer rebates.[17] As set forth in Section 4 of the Pricing Schedule, there are currently nine Priority Customer Complex Tiers as follows:

Priority Customer complex tier	Complex order volume percentage	Rebate for select symbols	Rebate for non-select symbols
Tier 1	0.000–0.200	($0.25)	($0.40)
Tier 2	Above 0.200–0.400	(0.30)	(0.55)
Tier 3	Above 0.400–0.600	(0.35)	(0.70)
Tier 4	Above 0.600–0.750	(0.40)	(0.75)
Tier 5	Above 0.750–1.000	(0.45)	(0.80)
Tier 6	Above 1.000–1.500	(0.46)	(0.80)
Tier 7	Above 1.500–2.000	(0.48)	(0.80)
Tier 8	Above 2.000–3.250	(0.50)	(0.85)
Tier 9	Above 3.250	(0.50)	(0.85)

Proposal

At this time, the Exchange proposes that to the extent Market Makers qualify for the foregoing Priority Customer complex order rebate in Tiers 7–9, they may also become eligible to earn a supplemental rebate in addition to the linked maker rebate tiers 2–4 in SPY, QQQ, and IWM provided to Market Makers that qualify for Market Maker Plus, as described above. Specifically, if Market Makers separately achieve Priority Customer complex tiers 7–9, they will earn an additional $0.01 per contract rebate on executions in SPY, QQQ, or IWM that qualify for the linked maker rebate program, in addition to the linked rebates tiers 2–4. As proposed, Market Makers that qualify for Priority Customer complex tiers 7–9 will receive a linked maker rebate of $0.16 per contract in tier 2, $0.20 per contract in tier 3, and $0.24 per contract in tier 4, provided that they also meet the qualifications of the applicable linked maker rebate tier.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[18] in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,[19] in particular, in that it provides for the equitable allocation of reasonable dues, fees, and other charges among members and issuers and other persons using any facility, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes that the proposed changes to provide a supplementary $0.01 per contract rebate in addition to the linked maker rebate tiers 2–4, provided the Market Maker achieves Priority Customer complex tiers 7–9 is reasonable because this incentive is intended to encourage Market Makers that maintain quality markets and qualify for Market Maker Plus to continue send more complex order flow to the Exchange to achieve Priority Customer complex tiers 7–9 in order to earn the additional $0.01 rebate. All market participants benefit from increased order interaction when more order flow is available on ISE. The

[8] Thus, for example, if a Market Maker achieves Tier 1 in SPY, Tier 2 in QQQ, and Tier 3 in IWM, the Market Maker would receive the $0.18 per contract Tier 2 regular maker rebate in QQQ, the $0.22 per contract Tier 3 regular maker rebate in IWM, and the $0.19 per contract Tier 3 linked maker rebate in SPY—*i.e.,* based on the Market Maker achieving Tier 3 in IWM.

[9] A ''Priority Customer'' is a person or entity that is not a broker/dealer in securities, and does not place more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s), as defined in Nasdaq ISE Rule 100(a)(37A).

[10] The Priority Customer Complex Tiers are based on total Affiliated Member or Affiliated Entity complex order volume (excluding Crossing Orders and Responses to Crossing Orders), and are calculated as a percentage of Customer Total Consolidated Volume (hereinafter, ''Complex Order Volume Percentage''). ''Customer Total Consolidated Volume'' means the total national volume cleared at The Options Clearing Corporation in the Customer range in equity and ETF options in that month.

[11] ''Non-Select Symbols'' are options overlying all symbols excluding Select Symbols.

[12] Rebates are provided per contract per leg if the order trades with non-Priority Customer orders in the complex order book or trades with quotes and orders on the regular order book.

[13] An ''Affiliated Member'' is a Member that shares at least 75% common ownership with a particular Member as reflected on the Member's Form BD, Schedule A.

[14] A ''Crossing Order'' is an order executed in the Exchange's Facilitation Mechanism, Solicited Order Mechanism, Price Improvement Mechanism (PIM) or submitted as a Qualified Contingent Cross order. For purposes of this Pricing Schedule, orders executed in the Block Order Mechanism are also considered Crossing Orders.

[15] ''Responses to Crossing Orders'' are any contra-side interest submitted after the commencement of an auction in the Exchange's Facilitation Mechanism, Solicited Order Mechanism, Block Order Mechanism or PIM.

[16] An ''Affiliated Entity'' is a relationship between an Appointed Market Maker and an Appointed OFP for purposes of qualifying for certain pricing specified in the Pricing Schedule. An ''Appointed Market Maker'' is a Market Maker who has been appointed by an Order Flow Provider (''OFP'') for purposes of qualifying as an Affiliated Entity. An ''Appointed OFP'' is an OFP (*i.e.,* a member, other than a Market Maker, that submits orders, as agent or principal, to the Exchange) who has been appointed by a Market Maker for purposes of qualifying as an Affiliated Entity. Each member may qualify for only one Affiliated Entity relationship at any given time. Affiliated Members are not eligible to enter an Affiliated Entity relationship.

[17] The Appointed OFP would receive the rebate associated with the qualifying volume tier based on aggregated volume.

[18] 15 U.S.C. 78f(b).

[19] 15 U.S.C. 78f(b)(4) and (5).

Exchange also believes that the proposed changes will continue to encourage better market quality in SPY, QQQ, and IWM as Market Makers would be able to earn the supplemental rebate in addition to the linked maker rebates that they may qualify for today.

The Exchange believes that the proposed changes to provide the supplemental $0.01 rebate to qualifying Market Makers are not unfairly discriminatory as the changes apply to all Market Makers orders based on achieving the required Priority Customer complex tier, and qualifying for the linked maker rebate program by way of achieving the required Market Maker Plus tier in SPY, QQQ, or IWM. Furthermore, the Exchange continues to believe that it is not unfairly discriminatory to offer these rebates only to Market Makers because Market Makers, and in particular, those Market Makers that achieve Market Maker Plus status, are subject to additional requirements and obligations (such as quoting requirements) that other market participants are not.

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 changes will encourage Market Makers that maintain quality markets and qualify for Market Maker Plus to continue send more complex order flow to the Exchange to achieve Priority Customer complex tiers 7–9 in order to earn the additional $0.01 rebate. All market participants benefit from increased order interaction when more order flow is available on ISE.

The Exchange operates in a highly competitive market in which market participants can readily direct their order flow to competing venues if they deem fee levels at a particular venue to be excessive, or rebate opportunities available at other venues to be more favorable. In such an environment, the Exchange must continually adjust its fees to remain competitive. For the reasons described above, the Exchange believes that the proposed fee changes reflect this competitive environment.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act,[20] and Rule 19b–4(f)(2) [21] 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: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–ISE–2019–03 on the subject line.

Paper Comments

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

All submissions should refer to File Number SR–ISE–2019–03. 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–ISE–2019–03 and should be submitted on or before April 9, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[22]

Eduardo A. Aleman,

Deputy Secretary.

[FR Doc. 2019–05091 Filed 3–18–19; 8:45 am]

BILLING CODE 8011–01–P

[20] 15 U.S.C. 78s(b)(3)(A)(ii).

[21] 17 CFR 240.19b–4(f)(2).

[22] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–85308; File No. SR–ISE–2019–05]

Self-Regulatory Organizations; Nasdaq ISE, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to No Longer Offer Complex Order Quoting Functionality or Legging Functionality for Stock-Option Orders and To Make Other Changes to Chapter 7

March 13, 2019.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 1, 2019, Nasdaq ISE, LLC (''ISE'' or the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to no longer offer Complex Order quoting functionality or legging functionality for Stock-Option Orders on ISE. The Exchange also proposes other amendments, including modifying its

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

Spread Feed, adopting a term ''Professional Customer,'' removing Mini Option language for Complex Orders, and reorganizing the Rulebook as well as other technical amendments.

The text of the proposed rule change is available on the Exchange's website at *http://ise.cchwallstreet.com/,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to: (1) Remove rule text related to Complex Order quoting functionality; (2) remove rule text related to legging functionality for Stock-Option Orders; (3) amend the description of the Nasdaq ISE Spread Feed including adopting a definition specifically for Professional Customer; (4) remove Mini Options language related to Complex Orders; and (5) reorganize the Rulebook and make other technical amendments. Each change will be discussed below.

Universal Changes

In addition to the amendments described below, the Exchange proposes to make several changes throughout its rules. In particular, the Exchange proposes to capitalize references to ''member'' to reflect the defined term ''Member'' [3] and capitalize references to ''system'' to reflect the defined term ''System.'' [4]

In addition, with the proposal herein to remove rule text related to Complex Order quoting functionality on ISE, as described in more detail below, the Exchange proposes to remove any references to Complex Order quotes throughout these proposed rules because the System will no longer accept Complex Order quotes. Finally, the Exchange will amend certain cross-references in connection with relocating certain rules described herein.

Complex Order Legging functionality for Stock-Option Orders

In 2017, ISE underwent a replatform to move its functionality to INET.[5] At that time, ISE proposed to delay the re-introduction of legging functionality for Stock-Option Orders for one year from the date of filing.[6] Subsequently, ISE filed to delay the re-introduction of legging functionality until March 21, 2019.[7] At this time, the Exchange proposes to not offer this functionality on ISE. If the Exchange determines to re-introduce legging functionality for Stock-Option Orders it will file a new proposal with the Commission. The legging functionality allows Members to leg into the regular market where they may trade against bids and offers for the individual legs pursuant to Rule 722(d)(2)and (3) and Supplementary Material .01 and .02 to Rule 722 (''legging''). With this proposed amendment to not offer this functionality, Stock-Option Orders will only be permitted to trade with other Stock-Option Orders in the complex order book. The Exchange will issue an Options Trader Alert notifying Members that legging functionality for Stock-Option Orders will no longer be available.

The Exchange proposes to not implement legging functionality for Stock-Option Orders because of concerns with obtaining executions for the stock portion of the order in a timely fashion in order to execute the Stock-Option Order on ISE. Previously, when this functionality was offered on ISE prior to the replatform to INET, the stock portion of the Stock-Option Order was obtained at a stock venue through a broker-dealer for Stock-Option Orders that attempted to execute the stock component of the order. A necessary delay was created when executing this order type because the option portion of the order could not execute until such time as the stock portion was executed. The added complexity of waiting for a third-party broker to obtain the stock portion of the order, check for compliance with Regulation SHO, post the trade to the tape and deliver the execution back to ISE, resulted in low fill rates for Stock-Option Orders because the stock portion was not always available immediately with mandated Regulation SHO compliance checks in place by the broker-dealer. The option portion of the Stock-Option Order was cancelled when the stock could not be obtained. The Exchange has considered the legging of Stock-Option Orders and has determined not to reintroduce the functionality in light of the complexity with obtaining the stock from a third party. Members may continue to execute Stock-Option Orders that trade with other Stock-Option Orders in the complex order book or hedge a stock against the option order in separate transactions. Further, the Exchange notes this functionality is not available on other markets that offer complex order functionality.[8]

With this proposal, Stock-Option Orders entered on the Exchange will not automatically execute against bids and offers on the Exchange for the individual legs pursuant to Rule 722(d)(1) and (3) and Supplementary Material .01 and .02 to Rule 722. Stock-Option Orders may execute against other Stock-Option Orders in the Complex Order Book, thereby providing an opportunity for Members to have their Stock-Option Orders executed on the Exchange. In addition complex [sic] orders continue to leg into the single-leg market as is the case today. Amendments to the rule text of ISE Rule 722 are explained below.

Complex Order Quoting

In 2017, in conjunction with the replatform of ISE to INET, ISE filed a rule change to delay the re-introduction of functionality that enabled ISE to designate symbols eligible for Market Maker quotes in the Complex Order book for one year from the date of filing.[9] Subsequently, ISE filed to delay the re-introduction of Complex Order quoting until April 26, 2019.[10] At this time, the Exchange proposes to not offer this functionality on ISE. If the Exchange determines to re-introduce

[3] The term ''Member'' means an organization that has been approved to exercise trading rights associated with Exchange Rights. *See* Rule 100(a)(30).

[4] The term ''System'' means the electronic system operated by the Exchange that receives and disseminates quotes, executes orders and reports transactions. *See* Rule 100(a)(63).

[5] INET is the proprietary core technology utilized across Nasdaq's global markets. The migration of ISE to the Nasdaq INET architecture has resulted in higher performance, scalability, and more robust architecture.

[6] *See* Securities Exchange Act Release No. 80316 (March 27, 2017) 82 FR 16084 (March 31, 2017) (SR–ISE–2017–28).

[7] *See* Securities Exchange Act Release No. 82961 (March 28, 2018), 83 FR 14302 (April 3, 2018) (SR–ISE–2018–21).

[8] Phlx does not offer legging functionality for stock-option orders.

[9] *See* Securities Exchange Act Release No. 80613 (May 5, 2017), 82 FR 22022 (May 11, 2017) (SR–ISE–2017–37).

[10] *See* Securities Exchange Act Release No. 83001 (April 5, 2018), 83 FR 15653 (April 11, 2018) (SR–ISE–2018–29).

Complex Order quoting functionality on ISE it will file a new proposal with the Commission. The Exchange will issue an Options Trader Alert notifying Members that Complex Order quoting functionality will no longer be available.

The Exchange does not believe that there is sufficient demand for this offering at this time from Market Makers. At the time this functionality was offered prior to the replatform to INET, only twelve symbols were available for Complex Order Quoting. The Exchange provided notice to Members on two occasions [11] with respect to delaying the Complex Order Quoting functionality. The Exchange did not receive any response from Market Makers with respect to the delay in offering this functionality. The Exchange has notified Members that it will not offer this functionality going forward and once again,[12] no response was received from Market Makers. Further, the Exchange notes that other markets that offer complex functionality do not offer complex quoting.[13] Market Makers may utilize orders in lieu of quotes to execute Complex Orders.

Prior to the delay in re-introducing the Complex Order quoting functionality, ISE's rules permitted Market Makers to enter quotes in certain symbols for complex strategies on the Complex Order book in their appointed options classes. Market Maker quotes for complex strategies were not automatically executed against bids and offers on the Exchange for the individual legs nor marked for price improvement.[14] Market Makers were not required to enter quotes on ISE's Complex Order book. Quotes for Complex Orders have not been subject to any quotation requirements that are applicable to Market Maker quotes in the regular market for individual options series or classes, nor was any volume executed in Complex Orders taken into consideration when determining whether Market Makers met quotation obligations applicable to Market Maker quotes in the regular market for individual options series.

Nasdaq ISE Spread Feed

The Exchange proposes to amend ISE Rule 718, titled ''Data Feeds and Trade Information'' to reflect its current practice. The Exchange also proposes a few technical amendments, including adding numbering to ISE Rule 718(a)(5) to bring greater clarity to the description and deleting a reference to Complex Order quotes. The Exchange proposes to add the word ''data'' before ''aggregated'' in the first sentence to give more context to the word. With this change, the first sentence will provide in part that the ''Nasdaq ISE Spread Feed (''Spread Feed'') is a feed that consists of: (1) Options orders for all Complex Orders (*i.e.,* spreads, buy-writes, delta neutral strategies, etc.); (2) data aggregated at the top five prices levels (BBO) on both the bid and offer side of the market; and (3) last trades information.'' The Exchange proposes to delete the words ''as well as'' from the first sentence because those words are not necessary to convey the information in the feed. The Exchange also proposes to add detail to the second sentence to reflect its current practice. The second sentence as amended will state that, ''The Spread Feed provides updates, including prices, side, size, and capacity, for every Complex Order placed on the ISE Complex Order book.'' The second sentence is reworded to remove the words ''In addition,'' which are no longer necessary and replace ''. . . for every time a new Complex Limit Order that is not immediately executable at the BBO . . .'' with ''. . . every Complex Order placed on the ISE Complex Order book.'' The phrase ''immediately executable at the BBO'' is not the trigger for the update; instead the booking of a Complex Order to the order book is the trigger to update the Spread Feed. This proposed new language is more accurate with respect to updates. Also, the Exchange is replacing the phrase ''Complex Limit Order'' with the broader term ''Complex Order'' which more accurately reflects the types of Complex Orders on the ISE Spread Feed.[15] Today, the Nasdaq ISE Spread Feed includes price, side, size, and capacity, for every Complex Order. The Exchange believes that this proposed language brings greater transparency to information contained in the data feed. Adding references to the additional information, price, side, size and capacity for every Complex Order as well as auction notifications, contained in the ISE Spread Feed is consistent with the Act because it will provide market participants with clear information as to the type of data available in the Spread Feed. By providing the details of the content of the Spread Feed, market participants will be better informed as to the type of information they may choose to access to obtain information about the Order Book and this will in turn promote just and equitable principles of trade.

The Exchange also is amending the last sentence of the current rule text in Rule 718(a)(5). Currently, ISE Rule 718(a)(5) provides, ''The Spread Feed shows aggregate bid/ask quote size for Public Customer [16] and Priority Customer [17] option orders for ISE traded options.'' The Exchange proposes to amend this sentence to state, ''The Spread Feed shows: (1) Aggregate bid/ask quote size; (2) aggregate bid/ask quote size for Professional Customer Orders; and (3) aggregate bid/ask quote size for Priority Customer Orders for ISE traded options.'' The Exchange is separating out this information to make clear that three separate types of information are available: (1) The local quote size (BBO) in the aggregate, (2) the local quote size for Professional Customer Orders and (3) the local quote size for Priority Customers. The Exchange believes that separating out the feed information to demonstrate the various pieces of information included in the data feed clarifies the description. In addition, the Exchange proposes to introduce a new term ''Professional Customer'' to replace the word ''Public Customer.'' The Exchange proposes to add a new definition for the term ''Professional Customer'' at proposed new Rule 100(a)(51A). This new term would mean a non-broker/dealer participant who enters at least 390 orders per day on average during a calendar month for its own beneficial account(s). The concept of a Professional is established on ISE,[18] this new term permits a Professional Customer to be more specifically identified within the Rules. The term ''Public Customer'' means a person or entity that is not a broker or dealer in securities.[19] The current feed—which refers to the aggregate quote sizes for Public Customers and Priority

[11] *See* Options Traders Alerts 2016–8 and 2016–10 (these prior option trade alerts are no longer publically available because the content is obsolete. The alerts were also superseded by Options Trader Alert 2019–3).

[12] *See* Options Trader Alert 2019–3.

[13] Phlx does not offer complex quoting.

[14] *See* Supplementary Material .03 to Rule 722.

[15] There are circumstances where Complex Market Orders, provided for in Rule 722(b)(1), will rest on the Complex Order Book. For example a Complex Market Order will remain on the Complex Order Book if there is no complex interest available for a complex strategy to execute against and the synthetic market for the complex strategy is beyond the trade through allowance provided for in Supplementary Material .07(a)(1) to ISE Rule 722.

[16] The term ''Public Customer'' means a person or entity that is not a broker or dealer in securities. *See* Rule 100(a)(52).

[17] The term ''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 account(s). *See* Rule 100(a)(49).

[18] *See* Rule 100(a)(51).

[19] *See* note 15 above. The terms Public Customer includes both Priority Customers and Professional Customers.

Customers—does not make clear that local Professional Customer and local Priority Customer quote sizes are separately available. Under the current description, it may appear that a quote size with both Professional Customer and Priority Customer interest is available along with a separate quote size for Priority Customer interest; however this is not the case. The more precise new defined term ''Professional Customer'' would make clear that manner in which the quote size information is segregated. As rewritten, the Exchange is representing that there are three separate streams of quote information and the ''Professional Customer'' and ''Priority Customer'' streams of quote information are separated. By adopting the new term ''Professional Customer'' the Exchange believes that the quote information being offered will be clear. The Exchange is not amending the information contained in the Spread Feed, rather these changes are intended to more accurately represent the information currently in the Spread Feed. It is consistent with the Act to provide clear information about the types of aggregated quotes available on the Spread Feed so that market participants are able to avail themselves of that information if they choose and also to better understand the information that is available to other market participants. The Exchange believes that adding this detail will add transparency to the data feed and promote just and equitable principles of trade.

Finally, the Exchange is also noting that the feed contains Complex Order auction notifications, which adds additional detail to the rule. It is consistent with the Act to include auction notifications in the feed to allow Members to be aware of ongoing auctions so they have an opportunity to participate in the auctions. The Exchange is not amending any Spread Feed pricing with this proposal.[20]

Mini Options

The Exchange proposes to remove the entire provision related to trading Mini Options for Complex Orders in Supplementary Material .06 [21] and the provision within .08(i) [22] to ISE Rule 722 which describe the manner in which listed Mini Options are handled for purposes of Complex Order trading. Today, while the Exchange's rules permit the listing of Mini Options, the Exchange does not list Mini Options for trading and has not listed Mini Options in some time. Accordingly, ISE proposes to delete the provisions addressing Mini Options in Complex Orders. The Exchange proposes to no longer list Mini Options for trading because the Exchange believes the demand for this product does not exist.[23] The Exchange would file a proposal to adopt rules to list Mini Options if it determines in the future that it desires to list these options. Additionally, the Exchange would file appropriate trading rules to govern the trading of Mini Options.

Reorganization of the Rulebook and Other Technical Amendments

Rule 715

The Exchange proposes to capitalize the defined term ''system'' within Rule 715(u) as explained in the beginning of the proposal.

Rule 716

The Exchange proposes to retitle Rule 716, currently titled ''Block Trades,'' as ''Auction Mechanisms'' because the new title more accurately describes the rule text contained in this rule. The Exchange proposes to relocate the text of Rule 716(a) within current Rule 716(c) and re-letter that Rule as 716(a). The Exchange also proposes to make clear that the Block Order Mechanism applies only to single-leg transactions and therefore does not apply to Complex Orders. The Exchange notes that it offers a Complex Order Exposure auction, which is described within Supplementary Material .01 to Rule 722.

The Exchange proposes to remove the ''(b)'' from Rule 716 so that the following text would apply to the entirety of Rule 716 and all mechanisms within the rule, including proposed relocated text, ''For purposes of this Rule, a ''broadcast message'' means an electronic message that is sent by the Exchange to all Members, and a ''Response'' means an electronic message that is sent by Members in response to a broadcast message.'' This rule text, as written, is being amended so that it is clear that the rule text applies to all mechanisms within this rule, including the mechanisms proposed to be relocated within the rule. In addition, the Exchange proposes to relocate and expand rule text within Supplementary Material .04 to Rule 716 [24] to this introductory paragraph so that with the relocation it also would apply to the entire rule. The Exchange proposes to provide, ''Also for purposes of this rule, the time given to Members to enter Responses for any of the below auction mechanisms shall be designated by the Exchange via circular, but no less than 100 milliseconds and no more than 1 second.'' Today, this rule text applies to all mechanisms within the rule, the Block Order Mechanism, Facilitation Mechanism and Solicitation Mechanism. As amended, the rule text would apply to all the relocated mechanisms as well.

The Exchange proposes to amend the Facilitation Mechanism to re-letter ''(d)'' as ''(b).'' The Exchange proposes to relocate rule text related to the Complex Facilitation Mechanism from Supplementary Material .08(a) to ISE Rule 722 to Rule 716(c).[25] [sic] ISE proposes to relocate the Complex Solicited Order Mechanism from Supplementary .08(b) to ISE Rule 722 to Rule 716(e). The Exchange notes that references to Complex Order quotes were not relocated with the rule text as the Exchange proposes to eliminate Complex Order quoting.

The Exchange also proposes to relocate the paragraph related to Limitations on Concurrent Complex Strategy Auctions, currently located in Supplementary Material .08(g) of ISE Rule 722, to Rule 716(f). The Exchange also proposes to relocate rule text relating to Concurrent Complex Order and single leg auctions, currently located Supplementary Material .08(h) of ISE Rule 722, to Rule 716(g).

The Exchange proposes to eliminate Supplementary Material .03, which is currently reserved, and .04 to Rule 716, which is being relocated as discussed above. The Exchange proposes to amend Supplementary Material .05 to Rule 716 to renumber it .03. The Exchange proposes to renumber Supplementary Material .06 to Rule 716 as .04. The Exchange proposes to eliminate

[20] The Spread Feed pricing is reflected in Options 7, Section 10, at I.

[21] Supplementary Material .06 to Rule 722 provides, ''If any leg of a complex strategy is a Mini Option contract as provided in Supplementary Material .13 to Rule 504, all options legs of such complex strategy must also be Mini Option contracts.''

[22] Supplementary Material .08(i) to Rule 722 provides, ''The minimum contract threshold shall be adjusted for Mini Options by a multiple of ten (10) and shall be as follows: (i) each leg of a Complex Options Order executed in the Complex Facilitation Mechanism must be for 500 or more Mini Option contracts; (ii) each leg of a Complex Options Order executed in the Complex Solicited Order Mechanism must be for 5,000 or more Mini Option contracts; and (iii) each leg of a Complex Qualified Contingent Cross Order must be for 10,000 or more Mini Option contracts coupled with a contra-side order or orders totaling an equal number of Mini Option contracts.''

[23] The Exchange will separately file to remove listing and other rules associated with Mini Options.

[24] Supplementary Material .04 to Rule 716 provides, ''The time given to Members to enter Responses under paragraphs (c)(1), (d)(1) and (e)(1) shall be designated by the Exchange via circular, but no less than 100 milliseconds and no more than 1 second.''

references to Supplementary Material .07 and .08 to Rule 716, which are currently reserved. The Exchange proposes to renumber Supplementary Material .09 to Rule 716 as .07.

Rule 721

The Exchange proposes to amend Rule 721, Crossing Orders. The Exchange proposes to add a title within Rule 721(a), ''Customer Cross Orders.'' This will distinguish this paragraph from new proposed Rule 721(b), titled ''Complex Customer Cross Orders.'' The Exchange notes that references to Complex Order quotes were not relocated with the rule text, as discussed below, as the Exchange proposes to eliminate Complex Order quoting.

The Exchange proposes to relocate rule text from Supplementary Material .08(d) to ISE Rule 722 to proposed Rule 721(b). The Exchange proposes to re-letter 721(b) as 721(c) and add a title ''Qualified Contingent Cross Orders'' to distinguish it from new proposed Rule 721(d), which the Exchange proposes to title ''Complex Qualified Contingent Cross Orders.'' The Exchange proposes to relocate rule text from Supplementary Material .08(e) to ISE Rule 722 to proposed Rule 721(d). The Exchange proposes to relocate certain rule text regarding Qualified Contingent Cross (''QCC'') Orders with Stock from Supplementary Material .01 -.03 to ISE Rule 721 to proposed Rule 721(e)(4)—(6). The Exchange is renumbering current Rule721(c) as ''(e)'' and adding a new title, ''Qualified Contingent Cross (''QCC'') with Stock.'' The Exchange proposes to relocate rule text from Supplementary Material .08(f) to ISE Rule 722 to proposed Rule 721(f) and add the title ''Complex QCC with Stock Orders.'' The Exchange notes that current Supplementary Material .08(f)(4) to ISE Rule 722 cross-references current Rule 721 at Supplementary Material .01—.03. The Exchange notes that it is deleting Supplementary Material .08(f)(4) to ISE Rule 722 because its sole purpose is to cross-reference Rule 721 and this provision is no longer necessary as ISE is relocating the rule text to Rule 721.

Rule 722

The Exchange proposes to delete the introductory text within ISE Rule 722, which provides, Stock-Option Orders will not be automatically executed against bids and offers on the Exchange for the individual legs (''legging'') pursuant to subparagraphs (d)(1) and (d)(3) of Rule 722 and Supplementary Material .01 and .02 to Rule 722. Stock-Option Orders will continue to execute against other Stock-Option Orders in the Complex Order Book. The Exchange will recommence legging for Stock-Option Orders on ISE on or before March 21, 2019. The Exchange will issue an Options Trader Alert notifying Members when this functionality will be available.

Only one Complex Order auction pursuant to Supplementary Material .01 and Supplementary Material .08(a)–(c) to Rule 722 may be ongoing at any given time in a complex strategy. Such Complex Order auctions will not queue or overlap in any manner. The Exchange will reject a Complex Order auction of the same or different auction type submitted pursuant to Supplementary Material .08(a)–(c) to Rule 722 while another Complex Order auction is ongoing in that complex strategy. When there is an ongoing auction in a complex strategy, a subsequent Complex Order for that strategy will not initiate an auction pursuant to Supplementary Material .01 to Rule 722 and will be processed as a Complex Order that is not marked for price improvement, unless the member requested the order to be cancelled after the exposure period, in which case the Complex Order will be cancelled back to the member.

The Exchange proposes herein to not offer legging functionality for Stock-Option Orders and therefore the first paragraph describing the delay is no longer necessary. The Exchange is proposing herein to remove all references to legging functionality for Stock-Option Orders. The second paragraph concerning concurrent auctions is no longer necessary because the Exchange details this behavior within its current rules in the section titled ''Limitations on Concurrent Complex Strategy Auctions'' currently located in Supplementary Material .08(g) of ISE Rule 722 and proposed to be relocated to Rule 716(f). Also, the paragraph titled ''Concurrent Complex Order and single leg auctions'' currently located within Supplementary Material .08(h) of ISE Rule 722 and proposed to be relocated to Rule 716(g), describes this behavior.

The Exchange proposes to eliminate Rule 722(b)(4) which is ''reserved'' and renumber the remainder of Rule 722(b). The Exchange proposes to amend ISE Rule 722(d) to change certain references, where applicable, from ''complex strategies'' to ''Complex Options Orders'' to reflect the removal of the legging of Stock-Option Orders. The Exchange notes as proposed, the Exchange would no longer offer legging functionality for Stock-Option Orders. The terms ''complex strategies'' includes Complex Options Strategies, Stock-Option Strategies, and Stock-Complex Strategies.[26] The Exchange proposes to modify portions of this rule, described herein, such as Rule 722(d)(2) to make clear the type of behavior that applies to Complex Options Orders as compared to the type of behavior that applies to Stock Options Orders and Stock Complex Orders that no longer would leg as proposed herein. The Exchange proposes to add a sentence to this paragraph (d)(2) which provides, ''Stock Option Orders and Stock Complex Orders will be executed at the best net price available from Complex Order Exposure pursuant to Supplementary Material .01 to Rule 722 and executable Complex Orders on the Complex Order Book'' to accurately reflect how Stock Option Orders and Stock Complex Orders would be executed.

Today, ISE Rule 722(d)(2) sets forth three allocation models which may be utilized: (1) 722(d)(2)(i) time priority; (2) 722(d)(2)(ii) ''pursuant to Nasdaq ISE Rule 713(e) and Supplementary Material .01(a) to Nasdaq ISE Rule 713 except that there shall be no participation rights for the Primary Market Maker as provided in Supplementary Material to Rule 713, paragraph .01(b) and (c)''; and (3) 722(d)(2)(iii) pro-rata based on size. The allocation method set forth in current Rule 722(d)(2)(ii) provides that a Primary Market Maker entering Complex Order Quotes is not entitled to the enhanced allocation provided for in Rule 713(e) for a Primary Market Maker quoting in the single-leg market. As noted herein, unlike the quoting obligation applicable to a Primary Market Maker in the single-leg market, a Primary Market Maker entering Complex Order Quotes has no corresponding quoting obligations. The Exchange proposes to remove the rule text contained within ISE Rule 722(d)(2)(ii) as this methodology was intended to be put in place if Complex Order Quoting was available to Market Makers. With this proposal, the Exchange will no longer offer Complex Order Quoting and this method of allocation would become obsolete because it would only apply with respect to Market Maker allocations in connection with Complex Order quoting. The Exchange also proposes to renumber ISE Rule 722(d)(2)(iii) as ''(ii).''

The Exchange proposes to remove certain rule text within ISE Rule 722(d)(3). This paragraph of Rule 722(d)(3) addresses a situation when there is no executable contra-side

[26] *See* Rule 722(a)(4).

complex interest on the Complex Order Book at a particular price and explains how executable Complex Options Orders legs may be executed against bids and offers for the individual options series. The current rule text provides, ''and the options leg(s) of executable Stock-Option Orders or executable Stock-Complex Orders with up to a maximum number of options legs (determined by the Exchange as either two legs, three legs or four legs).'' As proposed herein, the Exchange will no longer leg Stock-Option Orders, therefore this rule text that is currently described within ISE Rule 722(d)(3) would no longer be applicable and is proposed to be removed.

The Exchange proposes to amend Supplementary Material .01(c) Rule 722 to add a new sentence to describe the manner in which Stock Option Orders would be handled since the Exchange would no longer offer legging for Stock Option Orders, as proposed. The new sentence would provide, ''Notwithstanding the foregoing, Supplementary Material .01(c)(ii) shall not be applicable with respect to Stock Option Orders and Stock Complex Orders.'' The Exchange notes that Supplementary Material .01(c)(ii) to Rule 722 provides, ''At the end of the exposure period, if the Complex Order still improves upon the best price for the complex strategy on the same side of the market, it is automatically executed to the greatest extent possible pursuant to Rule 722(d)(2)–(3), taking into consideration. . . . bids and offers on the Exchange for the individual options series (including interest received during the exposure period).'' The Exchange notes that the bids and offers for the individual options series would only be taken into account for Complex Options Orders and not for Stock Option Orders and Stock Complex Orders, which, under the proposal, will no longer leg.

The Exchange is removing Supplementary Material .03, .04 and .05 to ISE Rule 722 as these sections relate to Market Maker quotes, which functionality is proposed to be removed with this proposal. The Exchange is removing Supplementary Material .06 to ISE Rule 722 as described in the section pertaining to Mini Options.

Supplementary Material .07 to ISE Rule 722 is being relocated to new Rule 724 as described in that section. Supplementary Material .08 to ISE Rule 722 is being relocated to Rules 716, 721 and 723 as described in those sections.

The Trade Value Allowance would be renumbered from Supplementary Material .09 to .03 of ISE Rule 722 to account for the removal of Supplementary Materials .03 to .08 of Rule 722.

The Complex Opening Process would be renumbered from Supplementary Material .10 to .04 of ISE Rule 722. The Complex Opening Price Determination would be renumbered from Supplementary Material .11 to .05 of ISE Rule 722. The word ''order'' is being capitalized within proposed Supplementary Material .05(d)(1) to ISE Rule 722, currently Supplementary Material .11(d)(i) of ISE Rule 722, because it is part of the defined term ''Priority Customer Order.'' The Exchange is also reformatting the numbering of this rule section to conform it to the remainder of the rule.

The Exchange is amending the uncrossing language within proposed Supplementary Material .05(d)(6) of ISE Rule 722, currently Supplementary Material .11(d)(vi) of ISE Rule 722, to amend the term ''complex strategy'' to ''Complex Option Order.'' Supplementary Material .10 of Rule 722 states, Complex Opening Process. After each of the individual component legs have opened, or reopened following a trading halt, Complex Options Strategies will be opened pursuant to the Complex Opening Price Determination described in Supplementary Material .11 to Rule 722, and Stock-Option Strategies and Stock-Complex Strategies will be opened pursuant to the Complex Uncrossing Process described in Supplementary Material .12 to Rule 722.

To further distinguish that the uncrossing language within proposed Supplementary Material .05(d)(6) of ISE Rule 722 does not apply to Stock-Option Strategies and Stock-Complex Strategies, the Exchange proposes to amend the more generic term ''complex strategy'' to replace that term with the more specific reference to ''Complex Options Orders.''

The Complex Uncrossing Process would be renumbered from Supplementary Material .12 to .06. of ISE Rule 722 . The Exchange proposes to amend the term ''Complex Order'' within proposed Supplementary Material .06(b)(2) and replace it with the more specific defined term ''Complex Options Order'' because this section references legging which cannot be accomplished, as proposed herein with Stock Option Orders and Stock Complex Orders.

Finally, the title ''Qualified Contingent Trade Exemption'' is being added to Supplementary Material .13 of ISE Rule 722 and Supplementary Material .13 is proposed to be renumbered as Supplementary Material .07 of ISE Rule 722.

Rule 723

The Exchange proposes to relocate the text of Supplementary Material .08(c) to ISE Rule 722 to proposed Rule 723(e).[27] The Exchange proposes to amend proposed Rule 723(e)(4)(vi) to replace the term ''complex strategy'' with ''Complex Order.'' A Complex Price Improvement Mechanism in a complex strategy may be ongoing at the same time as a Price Improvement Auction pursuant to Rule 723 or during an exposure period pursuant to Supplementary Material .02 to Rule 1901 in a component leg(s) of such Complex Order. The Exchange is amending the term because with this proposal, Stock Option Orders and Stock Complex Orders may not leg. Also, the Exchange is amending the last sentence of this same paragraph to provide, '' If a Complex Price Improvement Mechanism is early terminated pursuant to paragraph (iv) above, and the incoming Complex Order that causes the early termination in the complex strategy is also marketable against a component leg(s) of the complex strategy that is the subject of a concurrent ongoing Price Improvement Auction pursuant to Rule 723 or an exposure period pursuant to Supplementary Material .02 to Rule 1901, then the concurrent Complex Price Improvement Mechanism and component leg auction(s) are processed in the following sequence: . . . . and (3) legging of residual incoming Complex Order interest occurs, except with respect to Stock Option Orders and Stock Complex Orders.'' The Exchange similarly notes that this addition is consistent with the proposal to not offer legging for Stock Option Orders.

Supplementary Material .07 to Rule 723 and Supplementary Material .09 to Rule 723 are being eliminated as they are reserved. Supplementary Material .08 to Rule 723 is being renumbered as .07 and Supplementary Material .10 to Rule 723 is being renumbered as .08.

Rule 724

The Exchange proposes to relocate Supplementary Material .07 to ISE Rule 722 to new Rule 724 titled ''Complex Order Risk Protections.'' The Exchange proposes to add the following sentence to this rule, ''The following are Complex Order risk protections on ISE.'' This will distinguish these risk protections from those in Rule 714, which apply to single-leg transactions. The Exchange notes that references to Complex Order

[27] The Exchange notes that references to Complex Order quotes were not carried over with the rule text as the Exchange proposes to eliminate Complex Order quoting.

quotes were not relocated with the rule text as the Exchange proposes to eliminate Complex Order quoting.

The Exchange proposes to amend proposed new Rule 724(b)(2)(A) to amend the term ''Market Order'' to the defined term within Rule 722(b)(1) ''Market Complex Order'' [28] as this rule applies to Complex Orders. Additionally, as noted in the beginning of this proposal, references to Complex Order quotes are being removed. The Exchange proposes not to relocate the sentence within Supplementary .07(c)(1) of ISE Rule 722 which states, ''This limit order price protection applies only to orders and does not apply to quotes.'' There is no need to state that the limit order price protection applies only to orders since that is the only possibility with the removal of Complex Order quoting.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[29] in general, and furthers the objectives of Section 6(b)(5) of the Act,[30] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest for the reasons described below.

Complex Order Legging Functionality for Stock-Option Orders

The Exchange's proposal to not offer legging functionality for Stock-Option Orders is consistent with the Act because Members can continue to submit these orders to the Exchange where they can be executed against other Stock-Option Orders on the Complex Order book. No Members have notified the Exchange of any impact on execution quality as a result of the delayed implementation of legging functionality for Stock-Option Orders since the INET replatform, and therefore the Exchange does not believe that no longer offering this functionality will have a significant impact on market participants.

The Exchange is not implementing this functionality because the Exchange believes that obtaining the stock portion of the order is difficult given liquidity concerns. The Exchange believes its concerns surrounding historically low fill rates for this type of business model warrant the Exchange not offering this functionality, which is currently not available on other markets that offer complex functionality.[31] On ISE, when this functionality was offered prior to the ISE replatform to INET, the option order would be cancelled if the stock could not be obtained from a third party within a certain timeframe. The Exchange believes this decision to not offer this functionality promotes 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 because the Exchange has concerns with liquidity and historically low fill rates in offering legging functionality for Stock-Option Orders.

Complex Order Quoting

The Exchange's proposal to not offer Complex Order quoting on ISE is consistent with the Act because even though the Complex Order quoting functionality will not be available, Market Makers will still be able to submit Complex Orders. The Exchange has not experienced any impact with respect to execution quality in the time since the INET replatform. The Exchange notes that Phlx does not offer Complex Order quoting functionality.[32]

The Exchange does not believe that there is sufficient demand for this offering at this time from Market Makers. Members may utilize orders in lieu of quotes to execute Complex Orders and therefore not offering Complex Order quoting functionality does not create an impediment to a free and open market and a national market system.

Nasdaq ISE Spread Feed

The Exchange's proposal to add more specificity to the Nasdaq ISE Spread Feed in Rule 718(a)(5) will bring greater transparency to the data feed. The Exchange proposes to amend ISE Rule 718, titled ''Data Feeds and Trade Information'' to reflect its current practice. The technical amendments will add context to the rule. Adding references to the additional information, price, side, size and capacity for every Complex Order as well as auction notifications, contained in ISE Spread Feed is consistent with the Act because it will provide market participants with clear information as to the type of data available in the Spread Feed. By providing the details of the content of the Spread Feed, market participants will be better informed as to the type of information they may choose to access to obtain information about the Order Book and this will in turn promote just and equitable principles of trade.

Separating out the various types of information available and replacing the word ''Public Customer'' with the more precise new defined term ''Professional Customer'' will bring greater transparency to the rule. The Exchange's proposal to introduce the term ''Professional Customer'' and define that term to make clear that the current feed contains segregated local Professional Customer and segregated local Priority Customer quote sizes separately available is consistent with the Act. The Spread Feed is not being amended, rather the rule text is being amended to make clear what information is being disseminated over the feed. The information being received does contain separate data for Professional Customers and Priority Customers. By amending the rule text and making clear what specific data is contained in the Spread Feed the Exchange believes that it would promote just and equitable principles of trade, to [sic] remove impediments to and perfect the mechanism of a free and open market because market participant would have a better understanding of the data contained in the Spread Feed. It is consistent with the Act to provide clear information about the types of aggregated quotes available on the Spread Feed so that market participants are able to avail themselves of that information if they choose to receive the date feed, better understand the information that they are currently receiving on the date feed and also understand the information that is available to other market participants. The Exchange believes that adding this detail will add transparency to the data feed and promote just and equitable principles of trade.

Mini Options

The Exchange's proposal to remove language related to trading Mini Options in Supplementary Material .06 and .08(i) to ISE Rule 722 is consistent with the Act because it will avoid confusion since the Exchange no longer lists Mini Options for trading. The demand for this product has diminished and the Exchange will separately remove listing rules related to this product. The Exchange notes it has not listed Mini Option in some time. Removing this rule text will bring greater transparency to the Exchange's Rulebook.

[28] A Market Complex Order is a Complex Order to buy or sell a complex strategy that is to be executed at the best price obtainable. If not executable upon entry, such orders will rest on the Complex Order Book unless designated as fill-or-kill or immediate-or-cancel. *See* ISE Rule 722(b)(1).

[29] 15 U.S.C. 78f(b).

[30] 15 U.S.C. 78f(b)(5).

[31] Phlx does not offer legging functionality for stock-option orders.

[32] *See* Phlx Rule 1098.

Reorganization of the Rulebook and Other Technical Amendments

The Exchange's proposal to relocate various provisions is consistent with the Act because the reorganization is intended to bring greater transparency and ease of reference to the ISE Rulebook. Also, making technical non-substantive amendments to capitalize terms and amend cross-references will also bring greater clarity and transparency to the ISE Rulebook.

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 does not believe that the proposed rule change will impact the intense competition that exists in the options market.

Complex Order Legging Functionality for Stock-Option Orders

The Exchange does not believe that its proposal to not offer legging for Stock-Option Orders will impose an undue burden on intra-market competition because legging for Stock-Option Orders will not be available uniformly to any Member on ISE. Similarly, the Exchange does not believe that the proposal to not offer legging for Stock-Option Orders will impose any significant burden on inter-market competition as it does not impact the ability of other markets to offer or not offer competing functionality.

Complex Order Quoting

The Exchange does not believe that its proposal to not offer Complex Order quoting will impose an undue burden on intra-market competition because all Members uniformly will not be able to submit Market Maker quotes in the complex order book. All Members will be able to continue to submit Complex Orders on ISE. Similarly, the Exchange does not believe that the proposal will impose any significant burden on inter-market competition as it does not impact the ability of other markets to offer such quoting functionality.

Nasdaq ISE Spread Feed

The Exchange's proposal to add more specificity to the Nasdaq ISE Spread Feed in Rule 718(a)(5) will bring greater transparency to the data feed. The Exchange's proposal does not impose an undue burden on inter-market competition because today other options exchanges that offer complex orders offer similar data. The Exchange's proposal would not impose a burden on intra-market competition because adding references to the additional information, price, side, size and capacity for every Complex Order as well as auction notifications will provide all Members with clear information as to the type of data available in the Spread Feed. By providing the details of the content of the Spread Feed, Members will be better informed as to the type of information they may choose to access to obtain information about the Order Book.

The Exchange's proposal to separate the various types of information available and replace the word ''Public Customer'' with the more precise new defined term ''Professional Customer'' will bring greater transparency to the rule. The Exchange's proposal to introduce the term ''Professional Customer'' and define that term to make clear that the current feed contains segregated local Professional Customer and segregated local Priority Customer quote sizes separately available will make clear what specific data is contained in the Spread Feed. Members would have a better understanding of the data that is available in the Spread Feed. The revised rule text will provide information about the types of aggregated quotes available on the Spread Feed so that Members may better understand the information that they may currently obtain on the feed.

Mini Options

The Exchange's proposal to remove language related to trading Mini Options in Supplementary Material .06 and .08(i) to ISE Rule 722 will not impose an undue burden on inter-market competition as the Exchange no longer lists these types of options for trading and has no plans for listing them in the future. Other markets may continue to list mini options pursuant to their own trading rules. The Exchange's proposal does not impose an undue burden on intra-market competition because no ISE Member will be able to transact mini options.

Reorganization of the Rulebook and Other Technical Amendments

The Exchange's proposal to relocate various rules with similar topics and create new rules with the text will not impose an undue burden on intra-market or inter-market competition because the reorganization is intended to bring greater transparency and ease of reference to the ISE Rulebook. Also, making technical non-substantive amendments to capitalize terms and amend cross-references will also bring greater clarity and transparency to the ISE Rulebook.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act [33] and subparagraph (f)(6) of Rule 19b–4 thereunder.[34]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–ISE–2019–05 on the subject line.

Paper Comments

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

All submissions should refer to File Number SR–ISE–2019–05. This file

[33] 15 U.S.C. 78s(b)(3)(A)(iii).

[34] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–ISE–2019–05, and should be submitted on or before April 9, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[35]

Eduardo A. Aleman,

Deputy Secretary.

[FR Doc. 2019–05092 Filed 3–18–19; 8:45 am]

BILLING CODE 8011–01–P

[35] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–85304; File No. SR–PEARL–2019–07]

Self-Regulatory Organizations; MIAX PEARL, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the MIAX PEARL Fee Schedule

March 13, 2019.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on February 28, 2019, MIAX PEARL, LLC (''MIAX PEARL'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[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 PEARL Fee Schedule (the ''Fee Schedule'').

The text of the proposed rule change is available on the Exchange's website at *http://www.miaxoptions.com/rule-filings/pearl* at MIAX PEARL'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 Add/Remove Tiered Rebates/Fees set forth in Section (1)(a) of the Fee Schedule to (i) decrease Maker (as defined below) rebates in certain Tiers for options transactions in Penny classes (as defined below) for Priority Customers;[3] (ii) increase Taker (as defined below) fees in certain Tiers for options transactions in certain Penny classes (excluding SPY, QQQ, and IWM) for Priority Customers; (iii) decrease Taker fees in certain Tiers for options transactions in QQQ and IWM classes for Priority Customers; (iv) create a new tiered fee structure in Penny classes for Maker rebates for MIAX PEARL Market Makers[4] to carve out orders that are contra to Priority Customer Origin and make a corresponding clarifying change to MIAX PEARL Market Maker existing Maker tiers to clarify that it will apply to MIAX PEARL Market Maker orders contra Origins ex Priority Customer; (v) increase Taker fees in certain Tiers for options transactions in Penny classes for MIAX PEARL Market Makers; (vi) create a new tiered fee structure in Penny classes for Taker fees for MIAX PEARL Market Makers to carve out orders that are contra to Priority Customer Origin and make a corresponding clarifying change to MIAX PEARL Market Maker existing Taker tiers to clarify that it will apply to MIAX PEARL Market Maker orders contra Origins ex Priority Customer; (vii) create a new tiered fee structure in Penny classes for Maker rebates for Non-Priority Customers, Firms, Broker-Dealers and Non-MIAX PEARL Market Makers (collectively herein ''Professional Members'') to carve out orders that are contra to Priority Customer Origin and make a corresponding clarifying change to Professional Member existing Maker tiers to clarify that it will apply to Professional Members orders contra Origins ex Priority Customer; (viii) increase Taker fees in certain Tiers for options transactions in Penny classes for Professional Members; (ix) create a new tiered fee structure in Penny classes for Taker fees for Professional Members to carve out orders that are contra to Priority Customer Origin and make a corresponding clarifying change to Professional Member existing Taker tiers to clarify that it will apply to Professional Members orders contra Origins ex Priority Customer; and (x) and make a non-substantive technical correction to remove VXX from the Taker fee carve out that applies to all Penny classes other than SPY, QQQ, IWM, and VXX, for Priority Customers.

The Exchange currently assesses transaction rebates and fees to all market participants which are based upon the total monthly volume executed by the Member[5] on MIAX PEARL in the relevant, respective origin type (not including Excluded

[3] ''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 account(s). *See* Exchange Rule 100, including Interpretations and Policies .01.

[4] ''Market Maker'' means a Member registered with the Exchange for the purpose of making markets in options contracts traded on the Exchange. *See* the Definitions Section of the Fee Schedule and Exchange Rule 100.

[5] ''Member'' means an individual or organization that is registered with the Exchange pursuant to Chapter II of the Exchange Rules for purposes of trading on the Exchange as an ''Electronic Exchange Member'' or ''Market Maker.'' Members are deemed ''members'' under the Exchange Act. *See* the Definitions Section of the Fee Schedule and Exchange Rule 100.

Contracts)[6] expressed as a percentage of TCV.[7] In addition, the per contract transaction rebates and fees are applied retroactively to all eligible volume for that origin type once the respective threshold tier (''Tier'') has been reached by the Member. The Exchange aggregates the volume of Members and their Affiliates.[8] Members that place resting liquidity, *i.e.,* orders resting on the book of the MIAX PEARL System,[9] are paid the specified ''maker'' rebate (each a ''Maker''), and Members that execute against resting liquidity are assessed the specified ''taker'' fee (each a ''Taker''). For opening transactions and ABBO uncrossing transactions, per contract transaction rebates and fees are waived for all market participants. Finally, Members are assessed lower transaction fees and receive lower rebates for order executions in standard option classes in the Penny Pilot Program[10] (''Penny classes'') than for order executions in standard option classes which are not in the Penny Pilot Program (''non-Penny classes''), where Members are assessed higher transaction fees and receive higher rebates. Transaction rebates and fees in Section (1)(a) of the Fee Schedule are currently assessed according to the following tables:

Origin	Tier	Volume criteria	Per contract rebates/fees for Penny classes				Per contract rebates/fees for Non-Penny classes	
			Maker	Taker *	SPY taker	QQQ, IWM, VXX taker	Maker	Taker *
Priority Customer.	1	0.00%–0.10%	($0.25)	$0.48	$0.43	$0.47	($0.85)	$0.84
	2	Above 0.10%–0.35%.	(0.40)	0.46	0.43	0.46	(0.95)	0.84
	3	Above 0.35%–0.50%.	(0.45)	0.44	0.42	0.44	(1.00)	0.84
	4	Above 0.50%–0.75%.	(0.52)	0.44	0.41	0.43	(1.03)	0.84
	5	Above 0.75%–1.25%.	(0.53)	0.44	0.40	0.42	(1.04)	0.84
	6	Above 1.25%	(0.53)	0.43	0.38	0.40	(1.04)	0.84

* For all Penny Classes other than SPY, QQQ, IWM, and VXX.

Origin	Tier	Volume criteria	Per contract rebates/fees for Penny classes		Per contract rebates/fees for Non-Penny classes	
			Maker	Taker	Maker **	Taker **
All MIAX PEARL Market Makers.	1	0.00%–0.15%	($0.25)	$0.50	($0.30)	$1.10
	2	Above 0.15%–0.40% or Above 0.45% in SPY/QQQ/IWM.	(0.40)	0.50	(0.30)	1.10
	3	Above 0.40%–0.65%	(0.40)	0.48	(0.60)	1.09
	4	Above 0.65%–1.00% or Above 2.25% in SPY.	(0.47)	0.47	(0.65)	1.08
	5	Above 1.00%–1.40%	(0.48)	0.45	(0.70)	1.07
	6	Above 1.40%	(0.48)	0.44	(0.85)	1.06

[6] ''Excluded Contracts'' means any contracts routed to an away market for execution. *See* the Definitions Section of the Fee Schedule.

[7] ''TCV'' means total consolidated volume calculated as the total national volume in those classes listed on MIAX PEARL for the month for which the fees apply, excluding consolidated volume executed during the period time in which the Exchange experiences an ''Exchange System Disruption'' (solely in the option classes of the affected Matching Engine (as defined below)). The term Exchange System Disruption, which is defined in the Definitions section of the Fee Schedule, means an outage of a Matching Engine or collective Matching Engines for a period of two consecutive hours or more, during trading hours. The term Matching Engine, which is also defined in the Definitions section of the Fee Schedule, is a part of the MIAX PEARL electronic system that processes options orders and trades on a symbol-by-symbol basis. Some Matching Engines will process option classes with multiple root symbols, and other Matching Engines may be dedicated to one single option root symbol (for example, options on SPY may be processed by one single Matching Engine that is dedicated only to SPY). A particular root symbol may only be assigned to a single designated Matching Engine. A particular root symbol may not be assigned to multiple Matching Engines. The Exchange believes that it is reasonable and appropriate to select two consecutive hours as the amount of time necessary to constitute an Exchange System Disruption, as two hours equates to approximately 1.4% of available trading time per month. The Exchange notes that the term ''Exchange System Disruption'' and its meaning have no applicability outside of the Fee Schedule, as it is used solely for purposes of calculating volume for the threshold tiers in the Fee Schedule. *See* the Definitions Section of the Fee Schedule.

[8] ''Affiliate'' means (i) an affiliate of a Member of at least 75% common ownership between the firms as reflected on each firm's Form BD, Schedule A, or (ii) the Appointed Market Maker of an Appointed EEM (or, conversely, the Appointed EEM of an Appointed Market Maker). An ''Appointed Market Maker'' is a MIAX PEARL Market Maker (who does not otherwise have a corporate affiliation based upon common ownership with an EEM) that has been appointed by an EEM and an ''Appointed EEM'' is an EEM (who does not otherwise have a corporate affiliation based upon common ownership with a MIAX PEARL Market Maker) that has been appointed by a MIAX PEARL Market Maker, pursuant to the process described in the Fee Schedule. *See* the Definitions Section of the Fee Schedule.

[9] The term ''System'' means the automated trading system used by the Exchange for the trading of securities. *See* Exchange Rule 100.

[10] *See* Securities Exchange Act Release No. 84865 (December 19, 2018), 83 FR 66813 (December 27, 2018) (SR–PEARL–2018–26).

Origin	Tier	Volume criteria	Per contract rebates/fees for Penny classes		Per contract rebates/fees for Non-Penny classes	
			Maker ∧	Taker	Maker ** ∧	Taker **
Non-Priority Customer, Firm, BD, and Non-MIAX PEARL Market Makers.	1	0.00%–0.15%	($0.25)	$0.50	($0.30)	$1.10
	2	Above 0.15%–0.40%	(0.40)	0.50	(0.30)	1.10
	3	Above 0.40%–0.65%	(0.40)	0.48	(0.60)	1.10
	4	Above 0.65%–1.00%	(0.47)	0.48	(0.65)	1.09
	5	Above 1.00%–1.40%	(0.48)	0.48	(0.70)	1.08
	6	Above 1.40%	(0.48)	0.48	(0.85)	1.07

** Members may qualify for the Maker Rebate and the Taker Fee associated with the highest Tier for transactions in Non-Penny classes if the Member executes more than 0.30% volume in Non-Penny classes, not including Excluded Contracts, as compared to the TCV in all MIAX PEARL listed option classes. For purposes of qualifying for such rates, the Exchange will aggregate the volume transacted by Members and their Affiliates in the following Origin types in Non-Penny classes: MIAX PEARL Market Makers, and Non-Priority Customer, Firm, BD, and Non-MIAX PEARL Market Makers.

∧ Members may qualify for Maker Rebates equal to the greater of: (A) (0.40) for Penny Classes and (0.65) for Non-Penny Classes, or (B) the amount set forth in the applicable Tier reached by the Member in the relevant Origin, if the Member and their Affiliates execute at least 1.50% volume in the relevant month, in Priority Customer Origin type, in all options classes, not including Excluded Contracts, as compared to the TCV in all MIAX PEARL listed option classes.

Except as otherwise set forth herein, the Volume Criteria is calculated based on the total monthly volume executed by the Member in all options classes on MIAX PEARL in the relevant Origin type, not including Excluded Contracts, (as the numerator) expressed as a percentage of (divided by) TCV (as the denominator). In Tier 2 for MIAX PEARL Market Makers, the alternative Volume Criteria (above 0.45% in SPY/QQQ/IWM) is calculated based on the total monthly volume executed by the Market Maker collectively in SPY, QQQ, and IWM options on MIAX PEARL in the relevant Origin type, not including Excluded Contracts, (as the numerator) expressed as a percentage of (divided by) SPY/QQQ/IWM TCV (as the denominator). In Tier 4 for MIAX PEARL Market Makers, the alternative Volume Criteria (above 2.25% in SPY) is calculated based on the total monthly volume executed by the Market Maker solely in SPY options on MIAX PEARL in the relevant Origin type, not including Excluded Contracts, (as the numerator) expressed as a percentage of (divided by) SPY TCV (as the denominator). The per contract transaction rebates and fees shall be applied retroactively to all eligible volume once the threshold has been reached by Member. The Exchange aggregates the volume of Members and their Affiliates in the Add/Remove Tiered Fees. The per contract transaction rebates and fees shall be waived for transactions executed during the opening and for transactions that uncross the ABBO.

Maker Rebates

The Exchange proposes to decrease the Maker rebate amounts in certain Tiers for options transactions in Penny classes for Priority Customers. Specifically, for Priority Customer options transactions in Penny classes, the Exchange proposes to decrease the Maker rebate in Tier 4 from (0.52) to (0.51), in Tier 5 from (0.53) to (0.52), and in Tier 6 from (0.53) to (0.52).

Taker Fees

The Exchange proposes to: (i) Increase the Taker fees assessable to Priority Customers in certain Tiers for options transactions in certain Penny classes (excluding SPY, QQQ, and IWM), (ii) increase the Taker fees assessable to MIAX PEARL Market Makers in certain Tiers for options transactions in Penny classes, (iii) increase the Taker fees assessable to Professional Members in certain Tiers for options transactions in Penny classes, and (iv) decrease the Taker fees assessable to Priority Customers in certain Tiers for options transactions in QQQ and IWM classes.

Specifically, the Exchange proposes to increase the Taker fees for Priority Customer orders in options in certain Penny classes (excluding SPY, QQQ, and IWM) in Tier 2 from 0.46 to 0.48, in Tier 3 from 0.44 to 0.46, and in Tier 4 from 0.44 to 0.45. The Exchange next proposes to increase the Taker fees for MIAX PEARL Market Makers for options transactions in Penny classes in Tier 3 from 0.48 to 0.49, in Tier 4 from 0.47 to 0.48, in Tier 5 from 0.45 to 0.46, and in Tier 6 from 0.44 to 0.45. The Exchange further proposes to increase the Taker fees for Professional Members for options transactions in Penny classes in Tier 3 from 0.48 to 0.49, and in Tier 4 from 0.48 to 0.49. Lastly, the Exchange proposes to decrease the Taker fees for Priority Customer orders in options in QQQ and IWM classes in Tier 1 from 0.47 to 0.44, and in Tier 2 from 0.46 to 0.44.

New Tiered Fee Structure for MIAX PEARL Market Makers

The Exchange proposes to: (i) Create a new tiered fee structure in Penny classes for Maker rebates for MIAX PEARL Market Makers to carve out orders that are contra to Priority Customer Origin and make a corresponding clarifying change to MIAX PEARL Market Maker existing Maker tiers to clarify that it will apply to MIAX PEARL Market Maker orders contra Origins ex Priority Customer; and (ii) create a new tiered fee structure in Penny classes for Taker fees for MIAX PEARL Market Makers to carve out orders that are contra to Priority Customer Origin and make a corresponding clarifying change to MIAX PEARL Market Maker existing Taker tiers to clarify that it will apply to MIAX PEARL Market Maker orders contra Origins ex Priority Customer. Specifically, the Exchange proposes to amend the MIAX PEARL Market Maker table to establish a separate, additional tiered structure in Penny classes of Maker rebates for options transactions where the contra order is from a Priority Customer Origin. The Exchange currently does not distinguish Maker rebates for MIAX PEARL Market Makers based on the contra Origin type, but believes that making this distinction will provide greater granularity with respect to Maker rebates. The Exchange also proposes to make a corresponding change to the MIAX PEARL Market Maker table to clarify that the existing Maker rebates would apply to orders from all Origins except for those with a Priority Customer Origin, which would have their own carve out, by inserting the language ''Contra Origins ex Priority Customer'' right after the word ''Maker'' in the table.

Further, the Exchange proposes to amend the MIAX PEARL Market Maker table to establish a separate, additional tiered structure in Penny classes of Taker fees for options transactions where the contra order is from a Priority Customer Origin. The Exchange currently does not distinguish Taker fees for MIAX PEARL Market Makers based on the contra Origin, but believes that making this distinction will provide greater granularity with respect to Taker fees. The Exchange also proposes to make a corresponding change to the MIAX PEARL Market Maker table to clarify that the existing Taker fees

would apply to orders from all Origins except for those with a Priority Customer Origin, which would have their own carve out, by inserting the language ''Contra Origins ex Priority Customer'' right after the word ''Taker'' in the table.

The Exchange believes that the proposed new tiered fee structure for Maker rebates and Taker fees for MIAX PEARL Market Makers, carving out orders that are contra to Priority Customer Origin and the corresponding changes to the existing tiers will provide more granularity to the Fee Schedule, which will continue to provide appropriate incentives for Exchange Members to provide aggressive liquidity to attract Priority Customer transactions so that they can achieve higher rebates and lower fees. The Exchange believes these rebates and fees should continue to make MIAX PEARL an attractive venue where the Exchange's Members are incentivized to provide liquidity to attract Priority Customer orders, deepening and enhancing the quality of the MIAX PEARL marketplace. This should in turn provide more trading opportunities and tighter spreads for other market participants and result in a corresponding increase in order flow from such other market participants.

New Tiered Fee Structure for Professional Members

The Exchange proposes to: (i) Create a new tiered fee structure in Penny classes for Maker rebates for Professional Members to carve out orders that are contra to Priority Customer Origin and make a corresponding clarifying change to Professional Member existing Maker tiers to clarify that it will apply to Professional Members orders contra Origins ex Priority Customer; and (ii) create a new tiered fee structure in Penny classes for Taker fees for Professional Members to carve out orders that are contra to Priority Customer Origin and make a corresponding clarifying change to Professional Member existing Taker tiers to clarify that it will apply to Professional Member orders contra Origins ex Priority Customer. Specifically, the Exchange proposes to amend the Professional Member table to establish a separate, additional tiered structure in Penny classes of Maker rebates for options transactions where the contra order is from a Priority Customer Origin. The Exchange currently does not distinguish Maker rebates for Professional Members based on the contra Origin type, but believes that making this distinction will provide greater granularity with respect to Maker rebates. The Exchange also proposes to make a corresponding change to the Professional Member table to clarify that the existing Maker rebates would apply to orders from all Origins except for those with a Priority Customer Origin, which would have their own carve out, by inserting the language ''Contra Origins ex Priority Customer'' right after the word ''Maker'' in the table.

Further, the Exchange proposes to amend the Professional Member table to establish a separate, additional tiered structure in Penny classes of Taker fees for options transactions where the contra order is from a Priority Customer Origin. The Exchange currently does not distinguish Taker fees for Professional Members based on the contra Origin, but believes that making this distinction will provide greater granularity with respect to Taker fees. The Exchange also proposes to make a corresponding change to the Professional Member table to clarify that the existing Taker fees would apply to orders from all Origins except for those with a Priority Customer Origin, which would have their own carve out, by inserting the language ''Contra Origins ex Priority Customer'' right after the word ''Taker'' in the table.

The Exchange believes that the proposed new tiered fee structure in Penny classes for Maker rebates and Taker fees for Professional Members, carving out orders that are contra to Priority Customer Origin and the corresponding changes to the existing tiers will provide more granularity to the Fee Schedule, which will continue to provide appropriate incentives for Exchange Members to provide aggressive liquidity to attract Priority Customer transactions so that they can achieve higher rebates and lower fees. The Exchange believes these rebates and fees should continue to make MIAX PEARL an attractive venue where the Exchange's Members are incentivized to provide liquidity to attract Priority Customer orders, deepening and enhancing the quality of the MIAX PEARL marketplace. This should in turn provide more trading opportunities and tighter spreads for other market participants and result in a corresponding increase in order flow from such other market participants.

Technical Correction

The Exchange proposes to make a non-substantive technical correction to remove VXX from the Taker fee carve out that applies to all Penny classes other than SPY, QQQ, IWM, and VXX, for Priority Customers. By way of background, VXX options were authorized to be listed for trading on the Exchange pursuant to Rule 402, but are no longer listed for trading since the VXX ETN matured on January 30, 2019 [11] and VXX ETN shares are no longer listed for trading on equity trading venues. Accordingly, the Exchange proposes to amend its Fee Schedule to delete the symbol VXX from the Taker fee carve out that applies to all Penny classes other than SPY, QQQ, IWM, and VXX, for Priority Customers. Specifically, the Exchange proposes to delete the symbol VXX from the ''QQQ, IWM, VXX Taker'' column of the Exchange Rebates/Fees—Add/Remove Tiered Rebates/Fees, for Priority Customer transactions, and to delete VXX from the explanatory sentence beneath the Priority Customer table (referenced by way of an asterisk to the Taker fee) to make it clear that VXX will no longer be carved out from the Taker fee that applies to all Penny classes other than SPY, QQQ, and IWM. The amendment to remove VXX as a carve out from the Taker fee that applies to all Penny classes other than SPY, QQQ, IWM, and VXX, for Priority Customers, is intended to eliminate any potential confusion and to make it clear to market participants that VXX will no longer be part of the carve out that will continue to apply to Priority Customer transactions in SPY, QQQ, and IWM.

The purpose of adjusting the specified Taker fees and the specified Maker rebates is for business and competitive reasons. In order to attract order flow, the Exchange initially set its Maker rebates and Taker fees so that they were meaningfully higher/lower than other options exchanges that operate comparable maker/taker pricing models.[12] The Exchange now believes that it is appropriate to further adjust these specified Maker rebates and Taker fees so that they are more in line with other exchanges, but will still remain highly competitive such that they should enable the Exchange to continue to attract order flow and maintain market share.[13]

Cboe BZX Exchange, Inc. (''Cboe BZX'') generally provides for similar fees and rebates. For example, under threshold criteria similar to MIAX PEARL's proposed Maker rebates in Priority Customer Tiers 4, 5 and 6 for

[11] *See* Prospectus and Pricing Supplement for iPath S&P 500 VIX Short-Term Futures ETN available at *http://www.ipathetn.com/US/16/en/documentation.app?instrumentId=259118&documentId=6204338.*

[12] *See* Securities Exchange Act Release Nos. 80915 (June 13, 2017), 82 FR 27912 (June 19, 2017) (SR–PEARL–2017–29); 80914 (June 13, 2017), 82 FR 27910 (June 19, 2017) (SR–PEARL–2017–30).

[13] *See* Cboe BZX Options Exchange Fee Schedule, under ''Transaction Fees.''

Penny classes, Cboe BZX's Customer Penny Pilot Add Tiers 3, 4 and 5 provides for rebates of $0.51, $0.52, and $0.53, respectively.[14] Additionally, under threshold criteria similar to MIAX PEARL's proposed Taker fees in Priority Customer Tiers 2, 3 and 4; and in Priority Customer transactions in QQQ and IWM, Tiers 1 and 2 for Penny classes, Cboe BZX charges a fee of $0.50 for Customer Penny Pilot transactions that remove liquidity.[15] Additionally, under threshold criteria similar to MIAX PEARL's proposed Taker fees in Market Maker Tiers 3, 4, 5 and 6 for Penny classes, Cboe BZX charges Market Makers a fee of $0.44, $0.47 and $0.44 for non-Customer Penny Pilot Take Volume Tiers 1, 2 and 3, respectively.[16] Finally, under threshold criteria similar to MIAX PEARL's proposed Taker fees in Professional Member Tiers 3 and 4 for Penny classes, Cboe BZX charges Professionals a fee of $0.47 and $0.44 for non-Customer Penny Pilot Take Volume Tiers 2 and 3, respectively.[17]

Further, BOX Exchange LLC (''BOX'') generally provides for a similar tiered structure of rebates and fees. Specifically, similar to MIAX PEARL's proposed tiered fee structure for Maker rebates and Taker fees for MIAX PEARL Market Makers and Professional Members, carving out orders that are contra to Priority Customer Origin, BOX has different rebates and fees depending on the contra party.[18] For example, for orders submitted by Professional Customers or Broker Dealers, BOX offers different rebates and charges different fees depending on whether the contra is a Public Customer, Professional Customer/Broker Dealer, or Market Maker,[19] which is similar to MIAX PEARL's proposed tiered rebate and fee structure for Professional Members. Similarly, like MIAX PEARL's proposed tiered rebate and fee structure for Market Makers, BOX offers different rebates and charges different fees depending on whether the contra party to a Market Maker order is a Public Customer, Professional Customer/Broker Dealer or a Market Maker.[20]

With all proposed changes, Section (1)(a) of the Fee Schedule shall be the following:

Origin	Tier	Volume criteria	Per contract rebates/fees for Penny classes				Per contract rebates/fees for Non-Penny classes	
			Maker	Taker*	SPY taker	QQQ, IWM taker	Maker	Taker
Priority Customer.	1	0.00%–0.10%	($0.25)	$0.48	$0.43	$0.44	($0.85)	$0.84
	2	Above 0.10%–0.35%.	(0.40)	0.48	0.43	0.44	(0.95)	0.84
	3	Above 0.35%–0.50%.	(0.45)	0.46	0.42	0.44	(1.00)	0.84
	4	Above 0.50%–0.75%.	(0.51)	0.45	0.41	0.43	(1.03)	0.84
	5	Above 0.75%–1.25%.	(0.52)	0.44	0.40	0.42	(1.04)	0.84
	6	Above 1.25%	(0.52)	0.43	0.38	0.40	(1.04)	0.84

* For all Penny Classes other than SPY, QQQ, and IWM.

Origin	Tier	Volume criteria	Per contract rebates/fees for Penny classes				Per contract rebates/fees for Non-Penny classes	
			Maker (contra origins ex priority customer)	Maker (contra priority customer origin)	Taker (contra origins ex priority customer)	Taker (contra priority customer origin)	Maker**	Taker**
All MIAX PEARL Market Makers.	1	0.00%–0.15%	(0.25)	(0.23)	0.50	0.50	(0.30)	1.10
	2	Above 0.15%–0.40% or Above 0.45% in SPY/QQQ/IWM.	(0.40)	(0.38)	0.50	0.50	(0.30)	1.10
	3	Above 0.40%–0.65%.	(0.40)	(0.38)	0.49	0.50	(0.60)	1.09
	4	Above 0.65%–1.00% or Above 2.25% in SPY.	(0.47)	(0.45)	0.48	0.49	(0.65)	1.08
	5	Above 1.00%–1.40%.	(0.48)	(0.46)	0.46	0.47	(0.70)	1.07

[14] *See* Cboe BZX Options Exchange Fee Schedule, under ''Transaction Fees,'' ''Customer Penny Pilot Add Tiers.''

[15] *See* Cboe BZX Options Exchange Fee Schedule, under ''Transaction Fees,'' ''Customer Remove Rates.''

[16] *See* Cboe BZX Options Exchange Fee Schedule, under ''Transaction Fees,'' ''Non-Customer Penny Pilot Take Volume Tiers.''

[17] *See id.*

[18] *See* BOX Options Section I., Electronic Transaction Fees.

[19] *See id.*

[20] *See id.*

Origin	Tier	Volume criteria	Per contract rebates/fees for Penny classes				Per contract rebates/fees for Non-Penny classes	
			Maker (contra origins ex priority customer)	Maker (contra priority customer origin)	Taker (contra origins ex priority customer)	Taker (contra priority customer origin)	Maker **	Taker **
	6	Above 1.40%	(0.48)	(0.47)	0.45	0.46	(0.85)	1.06

Origin	Tier	Volume criteria	Per contract rebates/fees for Penny classes				Per contract rebates/fees for Non-Penny classes	
			Maker ^ (contra origins ex priority customer)	Maker ^ (contra priority customer origin)	Taker (contra origins ex priority customer)	Taker (contra priority customer origin)	Maker ** ^	Taker **
Non-Priority Customer, Firm, BD, and Non-MIAX PEARL Market Makers.	1	0.00%–0.15%	($0.25)	($0.23)	$0.50	$0.50	($0.30)	$1.10
	2	Above 0.15%–0.40%.	(0.40)	(0.38)	0.50	0.50	(0.30)	1.10
	3	Above 0.40%–0.65%.	(0.40)	(0.38)	0.49	0.50	(0.60)	1.10
	4	Above 0.65%–1.00%.	(0.47)	(0.45)	0.49	0.50	(0.65)	1.09
	5	Above 1.00%–1.40%.	(0.48)	(0.46)	0.48	0.50	(0.70)	1.08
	6	Above 1.40%	(0.48)	(0.46)	0.48	0.50	(0.85)	1.07

** Members may qualify for the Maker Rebate and the Taker Fee associated with the highest Tier for transactions in Non-Penny classes if the Member executes more than 0.30% volume in Non-Penny classes, not including Excluded Contracts, as compared to the TCV in all MIAX PEARL listed option classes. For purposes of qualifying for such rates, the Exchange will aggregate the volume transacted by Members and their Affiliates in the following Origin types in Non-Penny classes: MIAX PEARL Market Makers, and Non-Priority Customer, Firm, BD, and Non-MIAX PEARL Market Makers.

^ Members may qualify for Maker Rebates equal to the greater of: (A) ($0.40) for Penny Classes and ($0.65) for Non-Penny Classes, or (B) the amount set forth in the applicable Tier reached by the Member in the relevant Origin, if the Member and their Affiliates execute at least 1.50% volume in the relevant month, in Priority Customer Origin type, in all options classes, not including Excluded Contracts, as compared to the TCV in all MIAX PEARL listed option classes.

Except as otherwise set forth herein, the Volume Criteria is calculated based on the total monthly volume executed by the Member in all options classes on MIAX PEARL in the relevant Origin type, not including Excluded Contracts, (as the numerator) expressed as a percentage of (divided by) TCV (as the denominator). In Tier 2 for MIAX PEARL Market Makers, the alternative Volume Criteria (above 0.45% in SPY/QQQ/IWM) is calculated based on the total monthly volume executed by the Market Maker collectively in SPY, QQQ, and IWM options on MIAX PEARL in the relevant Origin type, not including Excluded Contracts, (as the numerator) expressed as a percentage of (divided by) SPY/QQQ/IWM TCV (as the denominator). In Tier 4 for MIAX PEARL Market Makers, the alternative Volume Criteria (above 2.25% in SPY) is calculated based on the total monthly volume executed by the Market Maker solely in SPY options on MIAX PEARL in the relevant Origin type, not including Excluded Contracts, (as the numerator) expressed as a percentage of (divided by) SPY TCV (as the denominator). The per contract transaction rebates and fees shall be applied retroactively to all eligible volume once the threshold has been reached by Member. The Exchange aggregates the volume of Members and their Affiliates in the Add/Remove Tiered Fees. The per contract transaction rebates and fees shall be waived for transactions executed during the opening and for transactions that uncross the ABBO.

The proposed changes are scheduled to become operative March 1, 2019.

2. Statutory Basis

The Exchange believes that its proposal to amend its Fee Schedule is consistent with Section 6(b) of the Act [21] in general, and furthers the objectives of Section 6(b)(4) of the Act,[22] in that it is an equitable allocation of reasonable dues, fees and other charges among Exchange members and issuers and other persons using its facilities, and 6(b)(5) of the Act,[23] in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanisms of a free and open market and a national market system and, in general, to protect investors and the public interest.

The proposed Maker rebate decreases in certain specified Tiers applicable to orders submitted by Priority Customers in Penny classes are reasonable, equitable and not unfairly discriminatory because all similarly situated market participants in the same Origin type are subject to the same tiered Maker rebates and access to the Exchange is offered on terms that are not unfairly discriminatory. The Exchange believes it is equitable and not unfairly discriminatory to reduce the Maker rebate to Priority Customer orders in Penny classes because for competitive and business reasons, the Exchange initially set its Maker rebates for such orders higher than certain other options exchanges that operate comparable maker/taker pricing models.[24] The Exchange now believes that it is appropriate to further decrease those specified Maker rebates so that they are more in line with other exchanges, and will still remain highly competitive such that they should

[21] 15 U.S.C. 78f(b).

[22] 15 U.S.C. 78f(b)(4).

[23] 15 U.S.C. 78f(b)(1) and (b)(5).

[24] *See supra* note 13.

enable the Exchange to continue to attract order flow and maintain market share.[25]

Furthermore, the proposed decreases to the Maker rebates for Priority Customers promotes just and equitable principles of trade, fosters cooperation and coordination with persons engaged in facilitating transactions in securities, and protects investors and the public interest, because even with the decreases, the Exchange's proposed Maker rebates for such orders still remain highly competitive with certain other options exchanges offering comparable pricing models, and should enable the Exchange to continue to attract order flow and maintain market share.[26] The Exchange believes that the amount of such fees, as proposed to be decreased, will continue to encourage those market participants to send orders to the Exchange.

The proposed Taker fee adjustments in certain specified Tiers applicable to certain orders submitted by Priority Customers in Penny classes (excluding SPY, QQQ, and IWM), Priority Customers in QQQ and IWM, MIAX PEARL Market Makers in Penny classes, and Professional Members in Penny classes are reasonable, equitable and not unfairly discriminatory because all similarly situated market participants in the same Origin type are subject to the same tiered Taker fees and access to the Exchange is offered on terms that are not unfairly discriminatory. For competitive and business reasons, the Exchange initially set its Taker fees for such orders generally lower than certain other options exchanges that operate comparable maker/taker pricing models.[27] The Exchange now believes that it is appropriate to further increase those specified Taker fees so that they are more in line with other exchanges, and will still remain highly competitive such that they should enable the Exchange to continue to attract order flow and maintain market share. The Exchange further believes that it is appropriate to decrease the Taker fees for Priority Customers in QQQ and IWM because these select products are generally more liquid than other options classes. The Exchange notes that, even as amended, its Taker fees are generally lower than certain other options exchanges operating competing models.[28] The Exchange believes for these reasons that increasing certain Taker fees for transactions in the specified Tiers is equitable, reasonable and not unfairly discriminatory, and thus consistent with the Act.

Furthermore, the proposed adjustments to the Taker fees for Priority Customers in certain Penny classes (excluding SPY, QQQ, and IWM), Priority Customers in QQQ and IWM, MIAX PEARL Market Makers in Penny classes, and Professional Members in Penny classes promotes just and equitable principles of trade, fosters cooperation and coordination with persons engaged in facilitating transactions in securities, and protects investors and the public interest, because even with the increases to Taker fees for Priority Customers in certain Penny classes (excluding SPY, QQQ, and IWM), MIAX PEARL Market Makers in Penny classes, and Professional Members in Penny classes, and the decreases to Taker fees for Priority Customers in QQQ and IWM, the Exchange's proposed Taker fees for such orders still remain highly competitive with certain other options exchanges offering comparable pricing models, and should enable the Exchange to continue to attract order flow and maintain market share.[29] The Exchange believes that the amount of such fees, as proposed to be adjusted, will continue to encourage those market participants to send orders to the Exchange. To the extent that order flow is increased by the proposal, market participants will increasingly compete for the opportunity to trade on the Exchange, including sending more orders which will have the potential to be assessed lower fees and higher rebates than certain other competing options exchanges. The resulting increased volume and liquidity will benefit all Exchange participants by providing more trading opportunities and tighter spreads.

The Exchange believes that the proposed new tiered fee structure for Maker rebates and Taker fees for MIAX PEARL Market Makers and Professional Members, carving out orders that are contra to Priority Customer Origin and the corresponding changes to the existing tiers are is reasonable, equitable and not unfairly discriminatory because the new tiered fee structures is consistent with other options markets that also assess different transaction fees depending on the contra Origin.[30] Additionally, the Exchange believes proposal is reasonable, equitable and not unfairly discriminatory because all similarly situated market participants in the same Origin type are subject to the same tiered Maker rebates and Taker fees and access to the Exchange is offered on terms that are not unfairly discriminatory. The Exchange believes the proposed new tiered fee structure promotes just and equitable principles of trade, fosters cooperation and coordination with persons engaged in facilitating transactions in securities, and protects investors and the public interest, because the proposal provides more granularity to the Fee Schedule, which will continue to provide appropriate incentives for Exchange Members to provide aggressive liquidity to attract Priority Customer transactions so that they can achieve higher rebates and lower fees. The Exchange believes these rebates and fees should continue to make MIAX PEARL an attractive venue where the Exchange's Members are incentivized to submit Priority Customer orders, deepening and enhancing the quality of the MIAX PEARL marketplace. This will benefit all market participants through increased liquidity, tighter markets and greater order interaction.

Further, the Exchange believes that removing VXX from the Taker fee carve out that currently applies to Penny classes other than SPY, QQQ, IWM, and VXX, for Priority Customers, is reasonable, equitable and not unfairly discriminatory because this proposal is intended only as a technical correction as VXX options are no longer listed for trading on the Exchange, and therefore, will no longer be included in the Taker fee carve out. The Exchange believes that removing VXX from the Taker fee carve out promotes just and equitable principles of trade, fosters cooperation and coordination with persons engaged in facilitating transactions in securities, and protects investors and the public interest, because it would eliminate any potential confusion and make it clear to market participants that VXX will no longer be included in the Taker fee carve out as VXX options are no longer listed for trading on the Exchange as a result of the VXX ETN maturity on January 30, 2019.[31]

B. Self-Regulatory Organization's Statement on Burden on Competition

MIAX PEARL 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 changes in the specified Maker rebates and Taker fees for the applicable market participants should continue to encourage the provision of liquidity that enhances the quality of the Exchange's

[25] *See supra* note 14.

[26] *See id.*

[27] *See supra* notes 15 and 16.

[28] *See id.*

[29] *See id.*

[30] *See supra* note 18.

[31] *See supra* note 11.

market and increases the number of trading opportunities on MIAX PEARL for all participants who will be able to compete for such opportunities. The proposed rule change should enable the Exchange to continue to attract and compete for order flow with other exchanges. However, this competition does not create an undue burden on competition but rather offers all market participants the opportunity to receive the benefit of competitive pricing.

The proposed Maker rebate decreases and Taker fee adjustments are intended to keep the Exchange's fees highly competitive with those of other exchanges, and to encourage liquidity and should enable the Exchange to continue to attract and compete for order flow with other exchanges. 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 rebates and fees to remain competitive with other exchanges and to attract order flow. The Exchange believes that the proposed rule changes reflect this competitive environment because they modify the Exchange's fees in a manner that encourages market participants to continue to provide liquidity and to send order flow to the Exchange.

The Exchange believes that the proposed new tiered fee structure for Maker rebates and Taker fees for MIAX PEARL Market Makers and Professional Members, carving out orders that are contra to Priority Customer Origin and the corresponding changes to the existing tiers are intended to keep the Exchange's fees highly competitive with those of other exchanges, and to encourage liquidity and should enable the Exchange to continue to attract and compete for order flow with other exchanges which offer comparable tiered fee structures for Maker rebates and Taker fees which distinguish by contra Origin type.

Further, the Exchange does not believe that removing VXX from the Taker fee carve out that currently applies to Penny classes other than SPY, QQQ, IWM, and VXX, for Priority Customers, will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act because the proposal to remove VXX from the Taker fee carve out is intended only as a technical correction, as VXX options are no longer listed for trading on the Exchange, and therefore, will no longer be included in the Taker fee carve out. Additionally, this proposed rule change would eliminate any potential confusion and make it clear to market participants that VXX will no longer be included in the Taker fee carve out as VXX options are no longer listed for trading on the Exchange as a result of the VXX ETN maturity on January 30, 2019.[32]

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,[33] and Rule 19b–4(f)(2)[34] 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–PEARL–2019–07 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–PEARL–2019–07. 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 offices 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–PEARL–2019–07, and should be submitted on or before April 9, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[35]

Eduardo A. Aleman,

Deputy Secretary.

[FR Doc. 2019–05088 Filed 3–18–19; 8:45 am]

BILLING CODE 8011–01–P

[32] *See id.*

[33] 15 U.S.C. 78s(b)(3)(A)(ii).

[34] 17 CFR 240.19b–4(f)(2).

[35] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meetings

TIME AND DATE: 2:00 p.m. on Thursday, March 21, 2019.

PLACE: The meeting will be held at the Commission's headquarters, 100 F Street NE, Washington, DC 20549.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters also may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or

more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (6), (7), (8), 9(B) and (10) and 17 CFR 200.402(a)(3), (a)(5), (a)(6), (a)(7), (a)(8), (a)(9)(ii) and (a)(10), permit consideration of the scheduled matters at the closed meeting.

Commissioner Peirce, as duty officer, voted to consider the items listed for the closed meeting in closed session.

The subject matters of the closed meeting will be:

Institution and settlement of injunctive actions;
Institution and settlement of administrative proceedings;
Resolution of litigation claims; and
Other matters relating to enforcement proceedings.

At times, changes in Commission priorities require alterations in the scheduling of meeting items.

CONTACT PERSON FOR MORE INFORMATION: For further information and to ascertain what, if any, matters have been added, deleted or postponed; please contact Vanessa A. Countryman from the Office of the Secretary at (202) 551–5400.

Dated: March 14, 2019.

Vanessa A. Countryman,

Acting Secretary.

[FR Doc. 2019–05200 Filed 3–15–19; 11:15 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–85300; File No. SR–NYSE–2019–11]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Exchange's Price List Related to Co-Location Services

March 13, 2019.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the ''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on March 1, 2019, New York Stock Exchange LLC (''NYSE'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C.78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the Exchange's Price List related to co-location services to make a ministerial change to reflect the name change of its affiliate Chicago Stock Exchange, Inc. and to correct a typographical error. The proposed change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the Price List related to co-location [4] services offered by the Exchange to make a ministerial change to reflect the name change of its affiliate Chicago Stock Exchange, Inc. (''CHX'') to NYSE Chicago, Inc. (''NYSE Chicago'') and to correct a typographical error.

[4] The Exchange initially filed rule changes relating to its co-location services with the Securities and Exchange Commission (''Commission'') in 2010. *See* Securities Exchange Act Release No. 62960 (September 21, 2010), 75 FR 59310 (September 27, 2010) (SR–NYSE–2010–56). The Exchange operates a data center in Mahwah, New Jersey (the ''data center'') from which it provides co-location services to Users. For purposes of the Exchange's co-location services, a ''User'' means any market participant that requests to receive co-location services directly from the Exchange. *See* Securities Exchange Act Release No. 76008 (September 29, 2015), 80 FR 60190 (October 5, 2015) (SR–NYSE–2015–40). As specified in the Price List, a User that incurs co-location fees for a particular co-location service pursuant thereto would not be subject to co-location fees for the same co-location service charged by the Exchange's affiliates NYSE American LLC (''NYSE American''), NYSE Arca, Inc. (''NYSE Arca''), and NYSE National, Inc. (''NYSE National'' and together, the ''Affiliate SROs''). *See* Securities Exchange Act Release No. 70206 (August 15, 2013), 78 FR 51765 (August 21, 2013) (SR–NYSE–2013–59).

On February 15, 2019, CHX changed its name to NYSE Chicago.[5] In a non-substantive administrative change, the Exchange proposes to update General Note 4 related to co-location services [6] as follows:

- Delete references to ''Chicago Stock Exchange, Inc.'' and ''CHX'' from the first paragraph of General Note 4, replacing them with references to ''NYSE Chicago, Inc.'' and ''NYSE Chicago''; and
- In the table under Included Data Products, delete ''Chicago Stock Exchange (CHX)'' from the first line and add a line for ''NYSE Chicago'' in alphabetical order after NYSE Bonds.

In addition, in the third sentence of the first paragraph under ''Connectivity to Third Party Data Feeds,'' the Exchange proposes to correct a typographical error by replacing ''Fees'' with ''Feeds.''

General

As is the case with all Exchange co-location arrangements, (i) neither a User nor any of the User's customers would be permitted to submit orders directly to the Exchange unless such User or customer is a member organization, a Sponsored Participant or an agent thereof (*e.g.,* a service bureau providing order entry services); (ii) use of the co-location services proposed herein would be completely voluntary and available to all Users on a non-discriminatory basis; [7] and (iii) a User would only incur one charge for the particular co-location service described herein, regardless of whether the User connects only to the

[5] *See* Securities Exchange Release No. 84494 (October 26, 2018), 83 FR 54953 (November 1, 2018) (SR–CHX–2018–05).

[6] General Note 4 describes the access to trading and execution systems and the connectivity to included data products which a User receives when it purchases access to the Liquidity Center Network (''LCN'') or internet protocol (''IP'') network, local area networks available in the data center. *See* Securities Exchange Act Release No. 79730 (January 4, 2017), 82 FR 3045 (January 10, 2017) (SR–NYSE–2016–92) (notice of filing and immediate effectiveness of proposed rule change amending the Exchange's price list related to co-location services to increase LCN and IP network fees and add a description of access to trading and execution services and connectivity to included data products).

[7] As is currently the case, Users that receive co-location services from the Exchange will not receive any means of access to the Exchange's trading and execution systems that is separate from, or superior to, that of other Users. In this regard, all orders sent to the Exchange enter the Exchange's trading and execution systems through the same order gateway, regardless of whether the sender is co-located in the data center or not. In addition, co-located Users do not receive any market data or data service product that is not available to all Users, although Users that receive co-location services normally would expect reduced latencies, as compared to Users that are not co-located, in sending orders to, and receiving market data from, the Exchange.

Exchange or to the Exchange and one or more of the Affiliate SROs.[8]

The proposed change is not otherwise intended to address any other issues relating to co-location services and/or related fees, and the Exchange is not aware of any problems that Users would have in complying with the proposed change.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[9] in general, and with Section 6(b)(1)[10] in particular, in that it enables the Exchange to be so organized as to have the capacity to be able to carry out the purposes of the Exchange Act and to comply, and to enforce compliance by its exchange members and persons associated with its exchange members, with the provisions of the Exchange Act, the rules and regulations thereunder, and the rules of the Exchange.

The proposed rule change is a non-substantive change and does not impact the governance or ownership of the Exchange. The Exchange believes that the proposed rule change would enable the Exchange to continue to be so organized as to have the capacity to carry out the purposes of the Exchange Act and comply and enforce compliance with the provisions of the Exchange Act by its members and persons associated with its members, because ensuring that the Price List accurately reflects the name change of its affiliate NYSE Chicago and correcting a typographical error would contribute to the orderly operation of the Exchange by adding clarity and transparency to such document.

The Exchange also believes that the proposed change furthers the objectives of Section 6(b)(5) of the Act[11] because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to, and perfect the mechanisms of, a free and open market and a national market system and, in general, to protect investors and the public interest and because it is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes that the proposed change would remove impediments to, and perfect the mechanisms of, a free and open market and a national market system and, in general, protect investors and the public interest by ensuring that market participants can more easily navigate, understand and comply with the Price List. The Exchange believes that, by ensuring that such document accurately reflects the name change of its affiliate NYSE Chicago, the proposed change would reduce potential investor or market participant confusion by providing market participants with clarity as to what connectivity is included in the purchase of access to the LCN and IP network.

Similarly, correcting the typographical error in the third sentence of the first paragraph under ''Connectivity to Third Party Data Feeds'' would remove impediments to, and perfect the mechanisms of, a free and open market and a national market system and, in general, protect investors and the public interest because the change would clarify Exchange rules and alleviate any possible market participant confusion.

For the reasons above, the proposed changes do not unfairly discriminate between or among market participants that are otherwise capable of satisfying any applicable co-location fees, requirements, terms and conditions established from time to time by the Exchange.

For these reasons, the Exchange believes that the proposal is consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,[12] the Exchange believes that the proposed rule change will not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act because it is ministerial in nature and is not designed to have any competitive impact, but rather to update references and correct a typographical error, thereby clarifying the Price List and alleviating any possible market participant confusion.

For the reasons described above, the Exchange believes that the proposed rule change reflects this competitive environment.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[13] and Rule 19b–4(f)(3)[14] thereunder in that the proposed rule change is concerned solely with the administration of the Exchange.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)[15] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSE–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–NYSE–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

[8] *See* 78 FR 51765, *supra* note 4, at 51766. NYSE American, NYSE Arca and NYSE National have submitted substantially the same proposed rule change to propose the changes described herein. *See* SR–NYSEAmer-2019–02, SR–NYSEArca–2019–11, and SR–NYSENat–2019–05.

[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78f(b)(1).

[11] 15 U.S.C. 78f(b)(5).

[12] 15 U.S.C. 78f(b)(8).

[13] 15 U.S.C. 78s(b)(3)(A).

[14] 17 CFR 240.19b–4(f)(3).

[15] 15 U.S.C. 78s(b)(2)(B).

amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSE–2019–11, and should be submitted on or before April 9, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[16]

Eduardo A. Aleman,

Deputy Secretary.

[FR Doc. 2019–05084 Filed 3–18–19; 8:45 am]

BILLING CODE 8011–01–P

[16] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–85305; File No. SR–NYSENAT–2019–05]

Self-Regulatory Organizations; NYSE National, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Its Schedule of Fees and Rebates Related to Co-Location Services

March 13, 2019.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (the ''Act'')[2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on March 1, 2019, NYSE National, Inc. (''NYSE National'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C.78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its Schedule of Fees and Rebates (the ''Price List'') related to co-location services to make a ministerial change to reflect the name change of its affiliate Chicago Stock Exchange, Inc. and to correct a typographical error. The proposed change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the Price List related to co-location[4] services offered by the Exchange to make a ministerial change to reflect the name change of its affiliate Chicago Stock Exchange, Inc. (''CHX'') to NYSE Chicago, Inc. (''NYSE Chicago'') and to correct a typographical error.

[4] The Exchange initially filed rule changes relating to its co-location services with the Securities and Exchange Commission (''Commission'') on May 18, 2018. *See* Securities Exchange Act Release No. 83351 (May 31, 2018), 83 FR 26314 (June 6, 2018) (SR–NYSENAT–2018–07). The Exchange operates a data center in Mahwah, New Jersey (the ''data center'') from which it provides co-location services to Users. For purposes of the Exchange's co-location services, a ''User'' means any market participant that requests to receive co-location services directly from the Exchange. *See id.* at note 9. As specified in the Price List, a User that incurs co-location fees for a particular co-location service pursuant thereto would not be subject to co-location fees for the same co-location service charged by the Exchange's affiliates the New York Stock Exchange (''NYSE''), NYSE American LLC (''NYSE American''), and NYSE Arca, Inc. (''NYSE Arca'' and together, the ''Affiliate SROs''). *See id.* at note 11.

On February 15, 2019, CHX changed its name to NYSE Chicago.[5] In a non-substantive administrative change, the Exchange proposes to update General Note 4 related to co-location services[6] as follows:

- Delete references to ''Chicago Stock Exchange, Inc.'' and ''CHX'' from the first paragraph of General Note 4, replacing them with references to ''NYSE Chicago, Inc.'' and ''NYSE Chicago''; and
- In the table under Included Data Products, delete ''Chicago Stock Exchange (CHX)'' from the first line and add a line for ''NYSE Chicago'' in alphabetical order after NYSE Bonds.

In addition, in the third sentence of the first paragraph under ''Connectivity to Third Party Data Feeds,'' the Exchange proposes to correct a typographical error by replacing ''Fees'' with ''Feeds.''

General

As is the case with all Exchange co-location arrangements, (i) neither a User nor any of the User's customers would be permitted to submit orders directly to the Exchange unless such User or customer is a member organization, a Sponsored Participant or an agent thereof (*e.g.,* a service bureau providing order entry services); (ii) use of the co-location services proposed herein would be completely voluntary and available to all Users on a non-discriminatory basis;[7] and (iii) a User would only incur one charge for the particular co-location service described herein, regardless of whether the User connects only to the Exchange or to the Exchange and one or more of the Affiliate SROs.[8]

[5] *See* Securities Exchange Release No. 84494 (October 26, 2018), 83 FR 54953 (November 1, 2018) (SR–CHX–2018–05).

[6] General Note 4 describes the access to trading and execution systems and the connectivity to included data products which a User receives when it purchases access to the Liquidity Center Network (''LCN'') or internet protocol (''IP'') network, local area networks available in the data center. *See* 83 FR 26314, *supra* note 3, at 26316.

[7] As is currently the case, Users that receive co-location services from the Exchange will not receive any means of access to the Exchange's trading and execution systems that is separate from, or superior to, that of other Users. In this regard, all orders sent to the Exchange enter the Exchange's trading and execution systems through the same order gateway, regardless of whether the sender is co-located in the data center or not. In addition, co-located Users do not receive any market data or data service product that is not available to all Users, although Users that receive co-location services normally would expect reduced latencies, as compared to Users that are not co-located, in sending orders to, and receiving market data from, the Exchange.

[8] *See id.* at 26315. NYSE, NYSE American, and NYSE Arca have submitted substantially the same proposed rule change to propose the changes described herein. *See* SR–NYSE–2019–11, SR–NYSEAmer–2019–02, and SR–NYSEArca–2019–11.

The proposed change is not otherwise intended to address any other issues relating to co-location services and/or related fees, and the Exchange is not aware of any problems that Users would have in complying with the proposed change.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[9] in general, and with Section 6(b)(1)[10] in particular, in that it enables the Exchange to be so organized as to have the capacity to be able to carry out the purposes of the Exchange Act and to comply, and to enforce compliance by its exchange members and persons associated with its exchange members, with the provisions of the Exchange Act, the rules and regulations thereunder, and the rules of the Exchange.

The proposed rule change is a non-substantive change and does not impact the governance or ownership of the Exchange. The Exchange believes that the proposed rule change would enable the Exchange to continue to be so organized as to have the capacity to carry out the purposes of the Exchange Act and comply and enforce compliance with the provisions of the Exchange Act by its members and persons associated with its members, because ensuring that the Price List accurately reflects the name change of its affiliate NYSE Chicago and correcting a typographical error would contribute to the orderly operation of the Exchange by adding clarity and transparency to such document.

The Exchange also believes that the proposed change furthers the objectives of Section 6(b)(5) of the Act[11] because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to, and perfect the mechanisms of, a free and open market and a national market system and, in general, to protect investors and the public interest and because it is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes that the proposed change would remove impediments to, and perfect the mechanisms of, a free and open market and a national market system and, in general, protect investors and the public interest by ensuring that market participants can more easily navigate, understand and comply with the Price List. The Exchange believes that, by ensuring that such document accurately reflects the name change of its affiliate NYSE Chicago, the proposed change would reduce potential investor or market participant confusion by providing market participants with clarity as to what connectivity is included in the purchase of access to the LCN and IP network.

Similarly, correcting the typographical error in the third sentence of the first paragraph under ''Connectivity to Third Party Data Feeds'' would remove impediments to, and perfect the mechanisms of, a free and open market and a national market system and, in general, protect investors and the public interest because the change would clarify Exchange rules and alleviate any possible market participant confusion.

For the reasons above, the proposed changes do not unfairly discriminate between or among market participants that are otherwise capable of satisfying any applicable co-location fees, requirements, terms and conditions established from time to time by the Exchange.

For these reasons, the Exchange believes that the proposal is consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,[12] the Exchange believes that the proposed rule change will not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act because it is ministerial in nature and is not designed to have any competitive impact, but rather to update references and correct a typographical error, thereby clarifying the Price List and alleviating any possible market participant confusion.

For the reasons described above, the Exchange believes that the proposed rule change reflects this competitive environment.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[13] and Rule 19b–4(f)(3)[14] thereunder in that the proposed rule change is concerned solely with the administration of the Exchange.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)[15] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSENAT–2019–05 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–NYSENAT–2019–05. 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

[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78f(b)(1).

[11] 15 U.S.C. 78f(b)(5).

[12] 15 U.S.C. 78f(b)(8).

[13] 15 U.S.C. 78s(b)(3)(A).

[14] 17 CFR 240.19b–4(f)(3).

[15] 15 U.S.C. 78s(b)(2)(B).

public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSENAT–2019–05, and should be submitted on or before April 9, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[16]

Eduardo A. Aleman,

Deputy Secretary.

[FR Doc. 2019–05089 Filed 3–18–19; 8:45 am]

BILLING CODE 8011–01–P

[16] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 33399; File No. 812–15009]

Lyft, Inc.

March 14, 2019.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice.

Notice of application for an order under Section 3(b)(2) of the Investment Company Act of 1940 (''Act'').

APPLICANT: Lyft, Inc. (''Lyft'').

SUMMARY OF APPLICATION: Applicant seeks an order under Section 3(b)(2) of the Act declaring it to be primarily engaged in a business other than that of investing, reinvesting, owning, holding or trading in securities. Applicant states that it is primarily engaged in the business of operating a multimodal transportation network that offers access to a variety of transportation options.

FILING DATES: The application was filed on March 13, 2019.

HEARING OR NOTIFICATION OF HEARING: An order granting the requested declaration will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicant 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 Applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090. Applicant, 185 Berry Street, Suite 5000, San Francisco, California 94107.

FOR FURTHER INFORMATION CONTACT: Rochelle Kauffman Plesset, Senior Counsel, or David J. Marcinkus, Branch Chief, at (202) 551–6825, (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission's website by searching for the file number, or applicant using the Company name box, at *http://www.sec.gov/search/search.htm* or by calling (202) 551–8090.

Applicant's Representations

1. Applicant is a Delaware corporation that, directly and through its wholly-owned subsidiaries, is in the business of operating a multimodal transportation network that offers access to a variety of transportation options. Applicant states that its primary business is facilitating peer-to-peer ridesharing by connecting drivers who have a car with passengers who need a ride as a transportation network company (''TNC'').[1] Applicant states that its operations also include providing a network of shared bikes and scooters, offering integrated third-party public transit data that provides a robust view of transportation options, and providing access to autonomous vehicles.

2. Applicant states that its business operations necessitate the Applicant to maintain a substantial cash position. Applicant states that the TNC industry is a cash intensive industry that requires it to have readily available capital for ongoing operations and expenditures. Applicant also states that it needs to maintain substantial liquid capital to fund research and development activities; pursue potential strategic acquisitions, including acquisition of businesses, new technologies, services and other assets and strategic investments that complement its business; and to retain sufficient insurance reserves.

3. Applicant states that it seeks to preserve its capital and maintain liquidity, pending the use of such capital to support its business operations, by investing in short-term investment grade and liquid fixed income and money market instruments that earn competitive market returns and provide a low level of credit risk (''Capital Preservation Investments''). Applicant states that it does not invest in securities for short-term speculative purposes.

Applicant's Legal Analysis

1. Applicant seeks an order under Section 3(b)(2) of the Act declaring that it is primarily engaged in a business other than that of investing, reinvesting, owning, holding, or trading in securities and therefore is not an investment company as defined in the Act.

2. Section 3(a)(l)(A) of the Act defines the term ''investment company'' to include an issuer that is or holds itself out as being engaged primarily, or proposes to engage primarily, in the business of investing, reinvesting or trading in securities. Section 3(a)(l)(C) of the Act further defines an investment company as an issuer that is engaged or proposes to engage in the business of investing, reinvesting, owning, holding or trading in securities, and owns or proposes to acquire investment securities having a value in excess of 40% of the value of the issuer's total assets (exclusive of Government securities and cash items) on an unconsolidated basis. Section 3(a)(2) of the Act defines ''investment securities'' to include all securities except Government securities, securities issued by employees' securities companies, and securities issued by majority-owned subsidiaries of the owner which (a) are not investment companies and (b) are not relying on the exclusions from the definition of investment company in Section 3(c)(1) or Section 3(c)(7) of the Act.

3. Applicant states that it does not hold itself out as being engaged primarily in the business of investing, reinvesting or trading in securities. Applicant states, however, that it maintains a significant amount of intangible assets, such as internally-generated intellectual property and its established user base that may not appear on its balance sheet. In addition, Applicant states that it is likely to invest

[1] Applicant states that its wholly-owned subsidiary, a captive insurance company that is registered in Hawaii, reinsures auto-related risk from third-party insurance providers.

a significant portion of the cash proceeds from its initial public offering in Capital Preservation Investments, which may be deemed investment securities for purposes of Section 3(a)(1)(C). Accordingly, Applicant states that its ability to avoid meeting the definition of investment company in Section 3(a)(1)(C) is uncertain.

4. Section 3(b)(2) of the Act provides that, notwithstanding Section 3(a)(l)(C) of the Act, the Commission may issue an order declaring an issuer to be primarily engaged in a business other than that of investing, reinvesting, owning, holding, or trading in securities directly, through majority-owned subsidiaries, or controlled companies conducting similar types of businesses. Applicant requests an order under Section 3(b)(2) of the Act declaring that it is primarily engaged in a business other than that of investing, reinvesting, owning, holding, or trading in securities, and therefore is not an investment company as defined in the Act.

5. In determining whether an issuer is ''primarily engaged'' in a non-investment company business under Section 3(b)(2) of the Act, the Commission considers the following factors: (a) The company's historical development, (b) its public representations of policy, (c) the activities of its officers and directors, (d) the nature of its present assets, and (e) the sources of its present income.[2]

6. Applicant submits that it satisfies the criteria for issuance of an order under Section 3(b)(2) of the Act because Applicant is primarily engaged in the business of operating a multimodal transportation network that offers access to a variety of transportation options and is not in the business of investing, reinvesting, owning, holding, or trading in securities

a. *Historical Development.* Applicant states that beginning in 2007, when it was first incorporated, and continuing through the present, Applicant has developed and operated transportation solutions. Applicant states that since 2012 it has developed and operated a multimodal transportation network. Applicant states that it is one of the largest multimodal transportation networks in the United States and in Canada, with 18.6 million active riders and over 1.1 million drivers who provided rides in the quarter ending December 31, 2018.

b. *Public Representations of Policy.* Applicant states that it has consistently represented publicly that it is engaged in the business of operating a multimodal transportation network. Applicant represents that it has never held and does not now hold itself out as an investment company within the meaning of the Act or as engaging in the business of investing, reinvesting, owning, holding, or trading in securities. Applicant's offering documents emphasize its operating results and do not emphasize either its investment income or the possibility of significant appreciation from its cash management investment strategies as a material factor in its business or future growth.

c. *Activities of Officers and Directors.* Applicant represents that its board of directors and officers devote substantially all of their time to managing Applicant's multimodal transportation networks. Applicant's cash management activities are managed by its Chief Financial Officer and one external investment manager, whose activities are supervised by the Chief Financial Officer. Applicant states that its Chief Financial Officer spends less than 2% of his time monitoring Applicant's cash balances and managing short-term investment securities in accordance with Applicant's investment policies. Further, Applicant states that no executive officer, other than the Chief Financial Officer, spends time monitoring the cash balances and managing short-term investment securities.

Applicant states that as of December 31, 2018, it had approximately 4,791 employees. No employee spends time on matters relating to the management of Applicant's investment securities.

d. *Nature of Assets.* Applicant states that as of December 31, 2018, Applicant's investment securities constituted approximately 68.8% of its total assets (excluding Government securities and cash items) on an unconsolidated basis. Furthermore, 100% of its investment securities consisted of Capital Preservation Investments.[3] Applicant anticipates that its investment securities other than Capital Preservation Investments will not exceed 10% of its total unconsolidated assets (excluding Government securities and cash items) in the future. Applicant states that it expects to continue investing in Capital Preservation Investments, as well as Government securities and cash items, to fund its current and future operations.

e. *Sources of Income and Revenue.* Applicant represents that since its inception it has had net operating losses. It does, however, derive income from its investment securities. Applicant states that a review of its current sources of revenues provides a more accurate picture of its operating company status, particularly given the substantially increased revenues from its operating activities. Applicant states that, for the year ended December 31, 2018, Applicant earned from its operating activities approximately $2.16 billion of revenues, compared to $1.05 billion of revenues in 2017 and $343 million of revenues in 2016. In contrast, Applicant earned $66 million in net investment income in 2018, $20 million in net interest income in 2017, and $7 million in net investment income in 2016, all derived from the Capital Preservation Investments. Applicant states that if net investment income were compared to its total revenues it would account for approximately 3% of total revenues in 2018 and approximately 2% of total revenues in 2017 and 2016.

7. Applicant asserts that its historical development, its public representations of policy, the activities of its officers and directors, the nature of its assets and its sources of revenue, as discussed in the application, demonstrate that it is engaged primarily in a business other than that of investing, reinvesting, owning, holding, or trading securities. Applicant thus asserts that it satisfies the criteria for issuing an order under Section 3(b)(2) of the Act.

Applicant's Conditions

Applicant agrees that any order granted pursuant to the application will be subject to the following conditions:

1. Applicant will continue to allocate and use its accumulated cash and investment securities for bona fide business purposes; and

2. Applicant will refrain from investing or trading in securities for short-term speculative purposes.

For the Commission, by the Division of Investment Management, under delegated authority.

Eduardo A. Aleman,

Deputy Secretary.

[FR Doc. 2019–05168 Filed 3–18–19; 8:45 am]

BILLING CODE P

[2] *Tonopah Mining Company of Nevada,* 26 SEC 426, 427 (1947).

[3] Applicant states that, with the exception of its captive insurance company, none of its wholly-owned subsidiaries hold investment securities. Applicant further states that while its captive insurance company holds a substantial amount of investment securities, the insurance company is not an investment company in reliance on Section 3(c)(3) of the Act.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–85298; File No. SR–BX–2019–003]

Self-Regulatory Organizations; Nasdaq BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Exchange's Transaction Fees at Equity 7, Section 118(a)

March 13, 2019.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 1, 2019, Nasdaq BX, Inc. (''BX'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to to [sic] amend the Exchange's transaction fees at Equity 7, Section 118(a), as described further below.

The text of the proposed rule change is available on the Exchange's website at *http://nasdaqbx.cchwallstreet.com/,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to amend the Exchange's transaction fees at Rule 7018(a) [sic] to adjust the qualifying terms for an existing credit it offers to members with orders that access liquidity on the Exchange.

The Exchange operates on the ''taker-maker'' model, whereby it pays credits to members that take liquidity and charges fees to members that provide liquidity. Currently, the Exchange offers several different credits for orders that access liquidity on the Exchange. Among these credits, the Exchange offers a $0.0015 per share executed credit for orders that access liquidity (excluding orders with Midpoint pegging and excluding orders that receive price improvement and execute against an order with a Non-displayed price) that are entered by a member that accesses liquidity equal to or exceeding 0.065% of total Consolidated Volume[3] during a month. For this credit, the Exchange proposes to increase the level of total Consolidated Volume required to qualify for the credit from 0.065% to 0.075%. The Exchange proposes to recalibrate the threshold upward to provide an incentive for firms to reach the Consolidated Volume threshold necessary to qualify for the credit.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[4] in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,[5] in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Commission and the courts have repeatedly expressed their preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. In Regulation NMS, while adopting a series of steps to improve the current market model, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system ''has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.''[6]

Likewise, in *NetCoalition* v. *Securities and Exchange Commission*[7] (''NetCoalition'') the D.C. Circuit upheld the Commission's use of a market-based approach in evaluating the fairness of market data fees against a challenge claiming that Congress mandated a cost-based approach.[8] As the court emphasized, the Commission ''intended in Regulation NMS that 'market forces, rather than regulatory requirements' play a role in determining the market data . . . to be made available to investors and at what cost.''[9]

Further, ''[n]o one disputes that competition for order flow is 'fierce.' . . . As the SEC explained, '[i]n the U.S. national market system, buyers and sellers of securities, and the broker-dealers that act as their order-routing agents, have a wide range of choices of where to route orders for execution'; [and] 'no exchange can afford to take its market share percentages for granted' because 'no exchange possesses a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers' . . . .''[10] Although the court and the SEC were discussing the cash equities markets, the Exchange believes that these views apply with equal force to the options markets.

The Exchange believes that it is reasonable to increase the Consolidated Volume threshold for orders that access liquidity in securities (excluding orders with Midpoint pegging and excluding orders that receive price improvement and execute against an order with a Non-displayed price) that are entered by a member that accesses liquidity equal to or exceeding 0.065% of total Consolidated Volume during a month from .065% to 0.075% of total Consolidated Volume. The proposal is a modest increase in the standard, which will ensure that members are providing adequate market participation in return for the credit.

The Exchange believes that increase to the total Consolidated Volume requirement is an equitable allocation and is not unfairly discriminatory because the Exchange will apply the same credit to all similarly situated members. Again, the proposed change is

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Pursuant to Equity 7, Section 118(a), the term ''Consolidated Volume'' means the total consolidated volume reported to all consolidated transaction reporting plans by all exchanges and trade reporting facilities during a month in equity securities, excluding executed orders with a size of less than one round lot.

[4] 15 U.S.C. 78f(b).

[5] 15 U.S.C. 78f(b)(4) and (5).

[6] Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) (''Regulation NMS Adopting Release'').

[7] *NetCoalition* v. *SEC,* 615 F.3d 525 (DC Cir. 2010).

[8] *See NetCoalition,* at 534–535.

[9] *Id.* at 537.

[10] *Id.* at 539 (quoting Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770, 74782–83 (December 9, 2008) (SR–NYSEArca–2006–21)).

a moderate increase to the Consolidated Volume requirement that any member may choose to achieve if it wishes to receive the credit.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. In terms of inter-market competition, 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, or rebate opportunities available at other venues to be more favorable. In such an environment, the Exchange must continually adjust its fees and credits to remain competitive with other exchanges and with alternative trading systems that have been exempted from compliance with the statutory standards applicable to exchanges. Because competitors are free to modify their own fees and credits in response, and because market participants may readily adjust their order routing practices, the Exchange believes that the degree to which fee or credit changes in this market may impose any burden on competition is extremely limited.

In this instance, the Exchange's proposed credit amendment does not impose a burden on competition because the Exchange's execution services are completely voluntary and subject to extensive competition both from other exchanges and from off-exchange venues. The proposed modification to the $0.0015 per share executed credit represents a modest increase in the criteria required to qualify for the credit. Members may choose to increase their level of Consolidated Volume to qualify for the credit. If the proposal is unattractive to market participants, it is likely that the Exchange will lose market share as a result. Accordingly, the Exchange does not believe that the proposal will impair the ability of members or competing order execution venues to maintain their competitive standing in the financial markets.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.[11]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–BX–2019–003 on the subject line.

Paper Comments

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

All submissions should refer to File Number SR–BX–2019–003. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BX–2019–003 and should be submitted on or before April 9,2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Eduardo A. Aleman,

Deputy Secretary.

[FR Doc. 2019–05083 Filed 3–18–19; 8:45 am]

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[11] 15 U.S.C. 78s(b)(3)(A)(ii).

[12] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–85306; File No. SR–NYSEARCA–2019–11]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the NYSE Arca Options Fees and Charges and the NYSE Arca Equities Fees and Charges Related to Co-Location Services

March 13, 2019.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (the ''Act'')[2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on March 1, 2019, NYSE Arca, Inc. (''NYSE Arca'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the NYSE Arca Options Fees and Charges (the ''Options Fee Schedule'') and the NYSE Arca Equities Fees and Charges (the ''Equities Fee Schedule'' and, together with the Options Fee Schedule,

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

the ''Fee Schedules'') related to co-location services to make a ministerial change to reflect the name change of its affiliate Chicago Stock Exchange, Inc. and to correct a typographical error. The proposed rule change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the Fee Schedules related to co-location [4] services offered by the Exchange to make a ministerial change to reflect the name change of its affiliate Chicago Stock Exchange, Inc. (''CHX'') to NYSE Chicago, Inc. (''NYSE Chicago'') and to correct a typographical error.

On February 15, 2019, CHX changed its name to NYSE Chicago.[5] In a non-substantive administrative change, the Exchange proposes to update General Note 4 related to co-location services [6] as follows:

- Delete references to ''Chicago Stock Exchange, Inc.'' and ''CHX'' from the first paragraph of General Note 4, replacing them with references to ''NYSE Chicago, Inc.'' and ''NYSE Chicago''; and
- In the table under Included Data Products, delete ''Chicago Stock Exchange (CHX)'' from the first line and add a line for ''NYSE Chicago'' in alphabetical order after NYSE Bonds.

In addition, in the third sentence of the first paragraph under ''Connectivity to Third Party Data Feeds,'' the Exchange proposes to correct a typographical error by replacing ''Fees'' with ''Feeds.''

General

As is the case with all Exchange co-location arrangements, (i) neither a User nor any of the User's customers would be permitted to submit orders directly to the Exchange unless such User or customer is a member organization, a Sponsored Participant or an agent thereof (*e.g.,* a service bureau providing order entry services); (ii) use of the co-location services proposed herein would be completely voluntary and available to all Users on a non-discriminatory basis; [7] and (iii) a User would only incur one charge for the particular co-location service described herein, regardless of whether the User connects only to the Exchange or to the Exchange and one or more of the Affiliate SROs.[8]

The proposed change is not otherwise intended to address any other issues relating to co-location services and/or related fees, and the Exchange is not aware of any problems that Users would have in complying with the proposed change.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[9] in general, and with Section 6(b)(1) [10] in particular, in that it enables the Exchange to be so organized as to have the capacity to be able to carry out the purposes of the Exchange Act and to comply, and to enforce compliance by its exchange members and persons associated with its exchange members, with the provisions of the Exchange Act, the rules and regulations thereunder, and the rules of the Exchange.

The proposed rule change is a non-substantive change and does not impact the governance or ownership of the Exchange. The Exchange believes that the proposed rule change would enable the Exchange to continue to be so organized as to have the capacity to carry out the purposes of the Exchange Act and comply and enforce compliance with the provisions of the Exchange Act by its members and persons associated with its members, because ensuring that the Fee Schedules accurately reflects the name change of its affiliate NYSE Chicago and correcting a typographical error would contribute to the orderly operation of the Exchange by adding clarity and transparency to such documents.

The Exchange also believes that the proposed change furthers the objectives of Section 6(b)(5) of the Act [11] because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to, and perfect the mechanisms of, a free and open market and a national market system and, in general, to protect investors and the public interest and because it is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes that the proposed change would remove

[4] The Exchange initially filed rule changes relating to its co-location services with the Securities and Exchange Commission (''Commission'') in 2010. *See* Securities Exchange Act Release No. 63275 (November 8, 2010), 75 FR 70048 (November 16, 2010) (SR–NYSEArca–2010–100). The Exchange operates a data center in Mahwah, New Jersey (the ''data center'') from which it provides co-location services to Users. For purposes of the Exchange's co-location services, a ''User'' means any market participant that requests to receive co-location services directly from the Exchange. *See* Securities Exchange Act Release No. 76010 (September 29, 2015), 80 FR 60197 (October 5, 2015) (SR–NYSEArca–2015–82). As specified in the Fee Schedules, a User that incurs co-location fees for a particular co-location service pursuant thereto would not be subject to co-location fees for the same co-location service charged by the Exchange's affiliates New York Stock Exchange LLC (''NYSE''), NYSE American LLC (''NYSE American''), and NYSE National, Inc. (''NYSE National'' and, together, the ''Affiliate SROs''). *See* Securities Exchange Act Release No. 70173 (August 13, 2013), 78 FR 50459 (August 19, 2013) (SR–NYSEArca–2013–80).

[5] *See* Securities Exchange Release No. 84494 (October 26, 2018), 83 FR 54953 (November 1, 2018) (SR–CHX–2018–05).

[6] General Note 4 describes the access to trading and execution systems and the connectivity to included data products which a User receives when it purchases access to the Liquidity Center Network (''LCN'') or internet protocol (''IP'') network, local area networks available in the data center. *See* Securities Exchange Act Release No. 79729 (January 4, 2017), 82 FR 3061 (January 10, 2017) (SR–NYSEArca–2016–172) (notice of filing and immediate effectiveness of proposed rule change amending the Exchange's Fee Schedules related to co-location services to increase LCN and IP network fees and add a description of access to trading and execution services and connectivity to included data products).

[7] As is currently the case, Users that receive co-location services from the Exchange will not receive any means of access to the Exchange's trading and execution systems that is separate from, or superior to, that of other Users. In this regard, all orders sent to the Exchange enter the Exchange's trading and execution systems through the same order gateway, regardless of whether the sender is co-located in the data center or not. In addition, co-located Users do not receive any market data or data service product that is not available to all Users, although Users that receive co-location services normally would expect reduced latencies, as compared to Users that are not co-located, in sending orders to, and receiving market data from, the Exchange.

[8] *See* 78 FR 50459, *supra* note 4, at 50459. NYSE, NYSE American, and NYSE National have submitted substantially the same proposed rule change to propose the changes described herein. *See* SR–NYSE–2019–11, SR–NYSEAmer–2019–02, and SR–NYSENat–2019–05.

[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78f(b)(1).

[11] 15 U.S.C. 78f(b)(5).

impediments to, and perfect the mechanisms of, a free and open market and a national market system and, in general, protect investors and the public interest by ensuring that market participants can more easily navigate, understand and comply with the Fee Schedules. The Exchange believes that, by ensuring that such documents accurately reflect the name change of its affiliate NYSE Chicago, the proposed change would reduce potential investor or market participant confusion by providing market participants with clarity as to what connectivity is included in the purchase of access to the LCN and IP network.

Similarly, correcting the typographical error in the third sentence of the first paragraph under ''Connectivity to Third Party Data Feeds'' would remove impediments to, and perfect the mechanisms of, a free and open market and a national market system and, in general, protect investors and the public interest because the change would clarify Exchange rules and alleviate any possible market participant confusion.

For the reasons above, the proposed changes do not unfairly discriminate between or among market participants that are otherwise capable of satisfying any applicable co-location fees, requirements, terms and conditions established from time to time by the Exchange.

For these reasons, the Exchange believes that the proposal is consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,[12] the Exchange believes that the proposed rule change will not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act because it is ministerial in nature and is not designed to have any competitive impact, but rather to update references and correct a typographical error, thereby clarifying the Fee Schedules and alleviating any possible market participant confusion.

For the reasons described above, the Exchange believes that the proposed rule change reflects this competitive environment.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

[12] 15 U.S.C. 78f(b)(8).

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [13] and Rule 19b–4(f)(3) [14] thereunder in that the proposed rule change is concerned solely with the administration of the Exchange.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B) [15] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEARCA–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–NYSEARCA–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 such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEARCA–2019–11, and should be submitted on or before April 9, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[16]

Eduardo A. Aleman,

Deputy Secretary.

[FR Doc. 2019–05090 Filed 3–18–19; 8:45 am]

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[13] 15 U.S.C. 78s(b)(3)(A).

[14] 17 CFR 240.19b–4(f)(3).

[15] 15 U.S.C. 78s(b)(2)(B).

[16] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–85303; File No. SR–NASDAQ–2019–011]

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Exchanges Pricing Schedule at Options 7

March 13, 2019.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on February 28, 2019, The Nasdaq Stock Market LLC (''Nasdaq'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the Exchanges Pricing Schedule at Options

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

7, which governs the pricing for Nasdaq participants using The Nasdaq Options Market (''NOM''), Nasdaq's facility for executing and routing standardized equity and index options.

While these amendments are effective upon filing, the Exchange has designated the proposed amendments to be operative on March 1, 2019.

The text of the proposed rule change is available on the Exchange's website at *http://nasdaq.cchwallstreet.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to create an alternative way for Participants to earn the Tier 3 NOM Market Maker Rebate to Add Liquidity in Penny Pilot Options. Today as set forth in Options 7, Section 2(1), the Exchange offers NOM Market Maker Rebates to Add Liquidity in Penny Pilot Options. These rebates are structured as a six tier program ranging from $0.20 to $0.48 per contract, with increasing volume requirements for each tier. Participants currently receive a $0.30 per contract (or $0.40 per contract in the symbols AAPL, QQQ, IWM, SPY and VXX) Tier 3 rebate for adding NOM Market Maker liquidity in Penny Pilot Options and/or Non-Penny Pilot Options above 0.20% to 0.60% of total industry customer equity and ETF option ADV contracts per day in a month. As proposed, a Participant will also earn the Tier 3 rebate if the Participant meets the following alternative qualifications: (1) Transacts in all securities through one or more of its Nasdaq Market Center MPIDs that represent 0.70% or more of Consolidated Volume (''CV'')[3] which adds liquidity in the same month on The Nasdaq Stock Market,[4] (2) transacts in Tape B securities[5] through one or more of its Nasdaq Market Center MPIDs that represent 0.18% or more of CV which adds liquidity in the same month on The Nasdaq Stock Market, and (3) executes greater than 0.01% of CV via Market-on-Close/Limit-on-Close (''MOC/LOC'')[6] volume within The Nasdaq Stock Market Closing Cross in the same month. The Exchange also proposes to make related clean-up changes by renumbering the existing method to qualify for Tier 3 as paragraph (a) and the proposed alternative as paragraph (b).

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[7] in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,[8] in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The alternative method to qualify for the Tier 3 NOM Market Maker Rebate to Add Liquidity in Penny Pilot Options proposed above is reasonable because it will create an additional opportunity for Participants to earn the Tier 3 rebate by incentivizing Participants to transact greater volume on The Nasdaq Stock Market in order to qualify for the Tier 3 rebate on NOM. The Exchange notes that this proposal is designed as a means to improve market quality by providing Participants with an incentive to increase their provision of liquidity on the Exchange's equity and options markets. Today, Participants that add NOM Market Maker liquidity in Penny Pilot Options and/or Non-Penny Pilot Options above 0.20% to 0.60% of total industry customer equity and ETF option ADV contracts per day in a month are paid a $0.30 per contract (or $0.40 per contract in the symbols AAPL, QQQ, IWM, SPY and VXX) Tier 3 rebate. This proposal would provide participants with additional opportunities to earn the same Tier 3 NOM Market Maker rebate, and will encourage Participants to send order flow to both the options and equity markets to receive the rebate.

Furthermore, the concept of linking incentive on NOM to activity on The Nasdaq Stock Market exists today. The Exchange currently offers rebates on NOM that relate to activity on The Nasdaq Stock Market.[9] Similarly, The Nasdaq Stock Market offers credits that are based on activity on NOM.[10] As such, the Exchange believes that the volume requirement to transact in all securities through one or more of the Participant's Nasdaq Market Center MPIDs that represent 0.70% or more of Consolidated Volume (''CV'') which adds liquidity in the same month on The Nasdaq Stock Market is reasonable because the Exchange already offers rebates based on similar volume requirements.[11] Similarly, the volume requirement to execute greater than 0.01% of CV via Market-on-Close/Limit-on-Close (''MOC/LOC'') volume within The Nasdaq Stock Market Closing Cross in the same month is reasonable because

[3] Consolidated Volume shall mean the total consolidated volume reported to all consolidated transaction reporting plans by all exchanges and trade reporting facilities during a month in equity securities, excluding executed orders with a size of less than one round lot. For purposes of calculating Consolidated Volume and the extent of an equity member's trading activity, expressed as a percentage of or ratio to Consolidated Volume, the date of the annual reconstitution of the Russell Investments Indexes shall be excluded from both total Consolidated Volume and the member's trading activity.

[4] In calculating total volume, the Exchange would add the Participant's total volume transacted on The Nasdaq Stock Market in a given month across its Nasdaq Market Center MPIDs which adds liquidity, and will divide this number by the total industry Consolidated Volume.

[5] Tape B securities are securities that are listed on exchanges other than The Nasdaq Stock Market or the New York Stock Exchange.

[6] MOC/LOC, as set forth in Nasdaq Rule 4754, represents the volume in The Nasdaq Stock Market Closing Cross that allows market participants to contribute order flow that will result in executions at the official closing price for the day in the Nasdaq listed security. A ''MOC Order'' is an order type entered without a price that may be executed only during the Nasdaq Closing Cross, which refers to the equity closing cross. A ''LOC Order'' is an order type entered with a price that may be executed only in the Nasdaq Closing Cross.

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(4) and (5).

[9] For example, one of the qualifications in the $0.48 per contract Tier 6 Customer and Professional Rebate to Add Liquidity in Penny Pilot Options requires that the Participant add liquidity in all securities through one or more of its Nasdaq Market Center MPIDs that represent 1.00% or more of Consolidated Volume in a month or qualifies for MARS. *See* Options 7, Section 2(1). Also, for example, note ''e'' of the NOM Pricing Schedule provides that Participants that transact in all securities through one or more of its Nasdaq Market Center MPIDs that represent 3.00% or more of Consolidated Volume in the same month on The Nasdaq Stock Market will receive a $0.52 per contract rebate to add liquidity in Penny Pilot Options as Customer or Professional and $1.00 per contract rebate to add liquidity in Non-Penny Pilot Options as Customer or Professional. *See* Options 7, Section 2(1).

[10] For example, Nasdaq offers a credit of $0.0029 per share if the member adds Customer, Professional, Firm, Non-NOM Market Maker and/or Broker-Dealer liquidity in Penny Pilot Options and/or Non- Penny Pilot Options of 1.15% or more of total industry ADV in the customer clearing range for Equity and ETF option contracts per day in a month on NOM. *See* Equity 7, Section 118(a)(1).

[11] *See* note 9 above.

the Exchange already offers rebates based on similar volume requirements.[12]

The volume requirement to transact in Tape B securities through one or more of the Participant's Nasdaq Market Center MPIDs that represent 0.18% or more of CV which adds liquidity in the same month on The Nasdaq Stock Market is a new requirement, which must be met in addition to the other two volume requirements proposed above. The Exchange believes that the Tape B volume requirement is reasonable because linking rebates on NOM to activity on The Nasdaq Stock Market in this manner will encourage Participants to add liquidity on The Nasdaq Stock Market, which will benefit all market participants by way of interacting with that liquidity on the equity market. By encouraging market participants to increase their participation on the equities market by transacting in Tape B securities, the Exchange is rewarding Participants with an opportunity to earn an additional options incentive, provided all requirements are met. Overall, the Exchange believes that the tiered NOM Market Maker Rebates to Add Liquidity in Penny Pilot Options with the proposed Tier 3 alternative will continue to reflect the progressively increasing rebate requirements that offer incentives to earn the highest NOM Market Maker rebate by bringing the most order flow to the Exchange.

The Exchange also believes that the proposed Tier 3 alternative is equitable and not unfairly discriminatory because all eligible Participants that qualify for these incentives will uniformly receive the rebate. The Exchange believes that the proposed volume requirements are proportionate to the amount of the Tier 3 rebate and equitably reflect the purpose of the proposed Tier 3 alternative, which is to incentivize Participants to transact greater volume on both the Exchange's equity and options markets. In addition, the Exchange believes that it is equitable and not unfairly discriminatory to offer this rebate to NOM Participants that transact as NOM Market Makers and also transact on The Nasdaq Stock Market. Any NOM Participant may trade on The Nasdaq Stock Market because they are approved members.[13] Furthermore, unlike other market participants, NOM Market Makers add value through continuous quoting and the commitment of capital.[14] Because NOM Market Makers have these obligations to the market and regulatory requirements that normally do not apply to other market participants, the Exchange believes that offering these rebates to only NOM Market Makers is equitable and not unfairly discriminatory in light of their obligations. Finally, encouraging NOM Market Makers to add greater liquidity benefits all market participants in the quality of order interaction.

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 pricing changes proposed above are generally designed to attract additional order flow to the Exchange, which strengthens the Exchange's competitive position. Greater liquidity benefits all market participants by providing more trading opportunities and attracting greater participation by market makers. An increase in the activity of these market participants in turn facilitates tighter spreads.

The Exchange 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, or rebate opportunities available at other venues to be more favorable. In such an environment, the Exchange must continually adjust its fees and rebates to remain competitive. Because competitors are free to modify their own fees and rebates in response, the Exchange believes that the degree to which pricing changes in this market may impose any burden on competition is extremely limited.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.[15]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–NASDAQ–2019–011 on the subject line.

Paper Comments

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

All submissions should refer to File Number SR–NASDAQ–2019–011. 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

[12] *See* note ''c'' of Options 7, Section 2(1), offering Participants that qualify for the $0.48 per contract Tier 6 Customer and Professional Rebate to Add Liquidity in Penny Pilot Options an additional $0.05 per contract rebate if they meet the requisite volume thresholds in clause (3) of note ''c,'' including executing greater than 0.04% of Consolidated Volume (''CV'') via Market-on-Close/Limit-on- Close (''MOC/LOC'') volume within The Nasdaq Stock Market Closing Cross within a month; and note ''f'' of Options 7, Section 2(1), offering Participants a $0.55 per contract Customer and Professional Rebate to Add Liquidity in Penny Pilot Options if they meet the requisite volume thresholds, including executing greater than 0.04% of Consolidated Volume (''CV'') via Market-on-Close/Limit-on-Close (''MOC/LOC'') volume within The Nasdaq Stock Market Closing Cross within a month.

[13] Although a NOM Participant may incur additional labor and/or costs to establish connectivity to The Nasdaq Stock Market, there are no additional membership fees for NOM Participants that want to transact on The Nasdaq Stock Market.

[14] Pursuant to Chapter VII (Market Participants), Section 5 (Obligations of Market Makers), in registering as a market maker, an Options Participant commits himself to various obligations. Transactions of a Market Maker in its market making capacity must constitute a course of dealings reasonably calculated to contribute to the maintenance of a fair and orderly market, and Market Makers should not make bids or offers or enter into transactions that are inconsistent with such course of dealings. Further, all Market Makers are designated as specialists on NOM for all purposes under the Act or rules thereunder. *See* Chapter VII, Section 5.

[15] 15 U.S.C. 78s(b)(3)(A)(ii).

amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NASDAQ–2019–011, and should be submitted on or before April 9, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[16]

Eduardo A. Aleman,

Deputy Secretary.

[FR Doc. 2019–05087 Filed 3–18–19; 8:45 am]

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[16] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–85302; File No. SR–NYSEAMER–2019–02]

Self-Regulatory Organizations; NYSE American LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Its NYSE American Equities Price List and the NYSE American Options Fee Schedule Related to Co-Location Services

March 13, 2019.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (the ''Act'')[2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on March 1, 2019, NYSE American LLC (''NYSE American'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its NYSE American Equities Price List (''Price List'') and the NYSE American Options Fee Schedule (''Fee Schedule'') related to co-location services to make a ministerial change to reflect the name change of its affiliate Chicago Stock Exchange, Inc. and to correct a typographical error. The proposed change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the Price List and Fee Schedule related to co-location[4] services offered by the Exchange to make a ministerial change to reflect the name change of its affiliate Chicago Stock Exchange, Inc. (''CHX'') to NYSE Chicago, Inc. (''NYSE Chicago'') and to correct a typographical error.

On February 15, 2019, CHX changed its name to NYSE Chicago.[5] In a non-substantive administrative change, the Exchange proposes to update General Note 4 related to co-location services[6] as follows:

- Delete references to ''Chicago Stock Exchange, Inc.'' and ''CHX'' from the first paragraph of General Note 4, replacing them with references to ''NYSE Chicago, Inc.'' and ''NYSE Chicago''; and
- In the table under Included Data Products, delete ''Chicago Stock Exchange (CHX)'' from the first line and add a line for ''NYSE Chicago'' in alphabetical order after NYSE Bonds.

In addition, in the third sentence of the first paragraph under ''Connectivity to Third Party Data Feeds,'' the Exchange proposes to correct a typographical error by replacing ''Fees'' with ''Feeds.''

General

As is the case with all Exchange co-location arrangements, (i) neither a User nor any of the User's customers would be permitted to submit orders directly to the Exchange unless such User or customer is a member organization, a Sponsored Participant or an agent thereof (*e.g.,* a service bureau providing order entry services); (ii) use of the co-location services proposed herein would be completely voluntary and available to all Users on a non-discriminatory basis;[7] and (iii) a User would only incur

[4] The Exchange initially filed rule changes relating to its co-location services with the Securities and Exchange Commission (''Commission'') in 2010. *See* Securities Exchange Act Release No. 62961 (September 21, 2010), 75 FR 59299 (September 27, 2010) (SR–NYSEAmex-2010–80). The Exchange operates a data center in Mahwah, New Jersey (the ''data center'') from which it provides co-location services to Users. For purposes of the Exchange's co-location services, a ''User'' means any market participant that requests to receive co-location services directly from the Exchange. *See* Securities Exchange Act Release No. 76009 (September 29, 2015), 80 FR 60213 (October 5, 2015) (SR–NYSEMKT–2015–67). As specified in the Price List and Fee Schedule, a User that incurs co-location fees for a particular co-location service pursuant thereto would not be subject to co-location fees for the same co-location service charged by the Exchange's affiliates New York Stock Exchange LLC (''NYSE LLC''), NYSE Arca, Inc. (''NYSE Arca'') and NYSE National, Inc. (''NYSE National'' and together, the ''Affiliate SROs''). *See* Securities Exchange Act Release No. 70176 (August 13, 2013), 78 FR 50471 (August 19, 2013) (SR–NYSEMKT–2013–67).

[5] *See* Securities Exchange Release No. 84494 (October 26, 2018), 83 FR 54953 (November 1, 2018) (SR–CHX–2018–05).

[6] General Note 4 describes the access to trading and execution systems and the connectivity to included data products which a User receives when it purchases access to the Liquidity Center Network (''LCN'') or internet protocol (''IP'') network, local area networks available in the data center. *See* Securities Exchange Act Release No. 79728 (January 4, 2017), 82 FR 3035 (January 10, 2017) (SR–NYSEMKT–2016–126) (notice of filing and immediate effectiveness of proposed rule change amending the Exchange's Price List and Fee Schedule related to co-location services to increase LCN and IP network fees and add a description of access to trading and execution services and connectivity to included data products).

[7] As is currently the case, Users that receive co-location services from the Exchange will not receive any means of access to the Exchange's trading and execution systems that is separate from, or superior to, that of other Users. In this regard, all orders sent to the Exchange enter the Exchange's trading and execution systems through the same order gateway, regardless of whether the sender is co-located in the data center or not. In addition, co-located Users do

one charge for the particular co-location service described herein, regardless of whether the User connects only to the Exchange or to the Exchange and one or more of the Affiliate SROs.[8]

The proposed change is not otherwise intended to address any other issues relating to co-location services and/or related fees, and the Exchange is not aware of any problems that Users would have in complying with the proposed change.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[9] in general, and with Section 6(b)(1) [10] in particular, in that it enables the Exchange to be so organized as to have the capacity to be able to carry out the purposes of the Exchange Act and to comply, and to enforce compliance by its exchange members and persons associated with its exchange members, with the provisions of the Exchange Act, the rules and regulations thereunder, and the rules of the Exchange.

The proposed rule change is a non-substantive change and does not impact the governance or ownership of the Exchange. The Exchange believes that the proposed rule change would enable the Exchange to continue to be so organized as to have the capacity to carry out the purposes of the Exchange Act and comply and enforce compliance with the provisions of the Exchange Act by its members and persons associated with its members, because ensuring that the Price List and Fee Schedule accurately reflects the name change of its affiliate NYSE Chicago and correcting a typographical error would contribute to the orderly operation of the Exchange by adding clarity and transparency to such documents.

The Exchange also believes that the proposed change furthers the objectives of Section 6(b)(5) of the Act [11] because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to, and perfect the mechanisms of, a free and open market and a national market system and, in general, to protect investors and the public interest and because it is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes that the proposed change would remove impediments to, and perfect the mechanisms of, a free and open market and a national market system and, in general, protect investors and the public interest by ensuring that market participants can more easily navigate, understand and comply with the Price List and Fee Schedule. The Exchange believes that, by ensuring such documents accurately reflect the name change of its affiliate NYSE Chicago, the proposed change would reduce potential investor or market participant confusion by providing market participants with clarity as to what connectivity is included in the purchase of access to the LCN and IP network.

Similarly, correcting the typographical error in the third sentence of the first paragraph under ''Connectivity to Third Party Data Feeds'' would remove impediments to, and perfect the mechanisms of, a free and open market and a national market system and, in general, protect investors and the public interest because the change would clarify Exchange rules and alleviate any possible market participant confusion.

For the reasons above, the proposed changes do not unfairly discriminate between or among market participants that are otherwise capable of satisfying any applicable co-location fees, requirements, terms and conditions established from time to time by the Exchange.

For these reasons, the Exchange believes that the proposal is consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,[12] the Exchange believes that the proposed rule change will not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act because it is ministerial in nature and is not designed to have any competitive impact, but rather to update references and correct a typographical error, thereby clarifying the Price List and Fee Schedule and alleviating any possible market participant confusion.

For the reasons described above, the Exchange believes that the proposed rule change reflects this competitive environment.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [13] and Rule 19b–4(f)(3) [14] thereunder in that the proposed rule change is concerned solely with the administration of the Exchange.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B) [15] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEAMER–2019–02 on the subject line.

Paper Comments

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

All submissions should refer to File Number SR–NYSEAMER–2019–02. This file number should be included on the

not receive any market data or data service product that is not available to all Users, although Users that receive co-location services normally would expect reduced latencies, as compared to Users that are not co-located, in sending orders to, and receiving market data from, the Exchange.

[8] *See* 78 FR 50471, *supra* note 4, at 50471. NYSE, NYSE Arca and NYSE National have submitted substantially the same proposed rule change to propose the changes described herein. *See* SR–NYSE–2019–11, SR–NYSEArca–2019–11, and SR–NYSENat–2019–05.

[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78f(b)(1).

[11] 15 U.S.C. 78f(b)(5).

[12] 15 U.S.C. 78f(b)(8).

[13] 15 U.S.C. 78s(b)(3)(A).

[14] 17 CFR 240.19b–4(f)(3).

[15] 15 U.S.C. 78s(b)(2)(B).

subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEAMER–2019–02, and should be submitted on or before April 9, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[16]

Eduardo A. Aleman,

Deputy Secretary.

[FR Doc. 2019–05086 Filed 3–18–19; 8:45 am]

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[16] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–85301; File No. SR–MIAX–2019–09]

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 13, 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'').

While changes to the Fee Schedule pursuant to this proposal are effective upon filing, the Exchange has designated these changes to be operative on March 1, 2019.

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 its Fee Schedule to (i) decrease the amount of the per contract credit assessable to Agency Orders (defined below) in a cPRIME Auction (''cPRIME Agency Order Credit'') for Members[3] in Tier 4 of the Priority Customer Rebate Program (''PCRP'')[4] and (ii) establish an alternative cPRIME Agency Order Credit amount for cPRIME Agency Orders in Tier 4 of the PCRP, that will apply instead of the credit otherwise applicable to such orders, if a certain threshold is satisfied by the Member.

Exchange Rule 518(b)(7) defines a cPRIME Order as a type of complex order[5] that is submitted for participation in a cPRIME Auction and trading of cPRIME Orders is governed by Rule 515A, Interpretations and Policies .12.[6] cPRIME Orders are processed and executed in the Exchange's PRIME mechanism, the same mechanism that the Exchange uses to process and execute simple PRIME orders, pursuant to Exchange Rule 515A.[7] PRIME is a process by which a Member may electronically submit for execution an order it represents as agent (an ''Agency Order'') against principal interest and/or solicited interest. The Member that submits the Agency Order (''Initiating Member'') agrees to guarantee the execution of the Agency Order by submitting a contra-side order representing principal interest or solicited interest (''Contra-Side Order''). When the Exchange receives a properly designated Agency Order for Auction processing, a request for response (''RFR'') detailing the option, side, size

[3] 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.

[4] Under the PCRP, MIAX Options credits each Member the per contract amount resulting from each Priority Customer order transmitted by that Member which is executed electronically on the Exchange in all multiply-listed option classes (excluding, in simple or complex as applicable, QCC and cQCC Orders, mini-options, Priority Customer-to-Priority Customer Orders, C2C and cC2C Orders, PRIME and cPRIME AOC Responses, PRIME and cPRIME Contra-side Orders, PRIME and cPRIME Orders for which both the Agency and Contra-side Order are Priority Customers, and executions related to contracts that are routed to one or more exchanges in connection with the Options Order Protection and Locked/Crossed Market Plan referenced in Exchange Rule 1400), provided the Member meets certain percentage thresholds in a month as described in the Priority Customer Rebate Program table. *See* Fee Schedule, Section (1)(a)(iii).

[5] A ''complex order'' is any order involving the concurrent purchase and/or sale of two or more different options in the same underlying security (the ''legs'' or ''components'' of the complex order), for the same account, in a ratio that is equal to or greater than one-to-three (.333) and less than or equal to three-to-one (3.00) and for the purposes of executing a particular investment strategy. A complex order can also be a ''stock-option'' order, which is an order to buy or sell a stated number of units of an underlying security coupled with the purchase or sale of options contract(s) on the opposite side of the market, subject to certain contingencies set forth in the proposed rules governing complex orders. For a complete definition of a ''complex order,'' *see* Exchange Rule 518(a)(5). *See also* Securities Exchange Act Release No. 78620 (August 18, 2016), 81 FR 58770 (August 25, 2016) (SR–MIAX–2016–26).

[6] *See* Securities Exchange Act Release No. 81131 (July 12, 2017), 82 FR 32900 (July 18, 2017) (SR–MIAX–2017–19). (Order Granting Approval of a Proposed Rule Change to Amend MIAX Options Rules 515, Execution of Orders and Quotes; 515A, MIAX Price Improvement Mechanism (''PRIME'') and PRIME Solicitation Mechanism; and 518, Complex Orders).

[7] *Id.*

and initiating price is broadcasted to MIAX Options participants up to an optional designated limit price. Members may submit responses to the RFR, which can be either an Auction or Cancel (''AOC'') order or an AOC eQuote. A cPRIME Auction is the price-improvement mechanism of the Exchange's System pursuant to which an Initiating Member electronically submits a complex Agency Order into a cPRIME Auction. The Initiating Member, in submitting an Agency Order, must be willing to either (i) cross the Agency Order at a single price against principal or solicited interest, or (ii) automatically match against principal or solicited interest, the price and size of a RFR that is broadcast to MIAX Options participants up to an optional designated limit price. Such responses are defined as cPRIME AOC Responses or cPRIME eQuotes.

cPRIME Agency Order Fees

In the PCRP, the Exchange assesses an Agency Order Credit for cPRIME Agency Orders. The Exchange currently credits each Member $0.10 per contract per leg for each Priority Customer [8] complex order submitted into the cPRIME Auction as a cPRIME Agency Order in Tiers 1, 2 and 3. The Exchange currently credits each Member $0.22 per contract per leg for each Priority Customer complex order submitted into the cPRIME Auction as a cPRIME Agency Order in Tier 4. However, no credit is assessed if the cPRIME Agency Order executes against a Contra-Side Order which is also from another a Priority Customer. Further, the per contract credit for cPRIME Agency Orders will continue to be assessable to the first 1,000 contracts per leg for each cPRIME Agency Order, which applies to all Tiers of the PCRP. The Exchange proposes to decrease the cPRIME Agency Order Credit for Members who are in Tier 4 of the PCRP from $0.22 to $0.10. The purpose of such decrease in Tier 4 is to align the credit offered for cPRIME Agency Orders in all Tiers to now be $0.10. The Exchange previously increased the cPRIME Agency Order Credit for Members who are in Tier 4 of the PCRP from $0.10 to $0.22 in order to encourage market participants to submit more Priority Customer cPRIME Agency Orders and therefore increase Priority Customer order flow.[9] The Exchange now believes, that it is appropriate to adjust this credit to be consistent with the other PCRP Tiers.

Alternative Credit for cPRIME Agency Orders

The Exchange additionally proposes to establish an alternative cPRIME Agency Order Credit amount for cPRIME Agency Orders in Tier 4 of the PCRP that will apply instead of the credit otherwise applicable to such orders, if a certain threshold is satisfied by the Member. Specifically, the Exchange proposes the following additional threshold: If any Member or its Affiliate [10] that qualifies for PCRP Tier 4 executes Priority Customer standard, non-paired complex volume at least equal to or greater than their Priority Customer cPRIME Agency Order volume, on a monthly basis, then the Member will receive a credit of $0.22 per contract for cPRIME Agency Orders instead of the credit otherwise applicable to such orders in Tier 4. The Exchange believes that establishing this additional threshold will encourage market participants to submit more complex orders and therefore increase Priority Customer order flow. Specifically, the Exchange believes that by encouraging market participants to execute Priority Customer standard, non-paired complex volume at least equal to or greater than their Priority Customer cPRIME Agency Order volume in order to receive a credit of $0.22 per contract for cPRIME Agency Orders instead of the credit otherwise applicable to such orders in Tier 4 of the PCRP will increase volume of Priority Customer standard, non-paired complex order and of Priority Customer complex orders, which will result in increased liquidity which benefits all Exchange participants by providing more trading opportunities and tighter spreads.

The proposed rule change is scheduled to become operative March 1, 2019.

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 that it is an equitable allocation of reasonable dues, fees and other charges among Exchange members and issuers and other persons using its facilities, and 6(b)(5) of the Act,[13] in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanisms of a free and open market and a national market system and, in general, to protect investors and the public interest.

The Exchange's proposal to decrease the cPRIME Agency Order Credit assessable to Priority Customer cPRIME Agency Orders by Members in Tier 4 of the PCRP is consistent with Section 6(b)(4) of the Act [14] because it applies equally to all participants with similar order flow in that tier. The Exchange believes that the proposed PCRP rebate decrease in Tier 4 for Priority Customer orders submitted into cPRIME Auctions is fair, equitable, and not unreasonably discriminatory. The PCRP is reasonably designed because it will incentivize providers of Priority Customer order flow to send that Priority Customer order flow to the Exchange in order to obtain the highest volume threshold and receive credits in a manner that enables the Exchange to improve its overall competitiveness and strengthen its

[8] ''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. *See* Exchange Rule 100.

[9] *See* Securities Exchange Act Release No. 81372 (August 10, 2017), 82 FR 157 (August 16, 2017) (SR–MIAX–2017–40).

[10] For purposes of the MIAX Options Fee Schedule, the term ''Affiliate'' means (i) an affiliate of a Member of at least 75% common ownership between the firms as reflected on each firm's Form BD, Schedule A, (''Affiliate''), or (ii) the Appointed Market Maker of an Appointed EEM (or, conversely, the Appointed EEM of an Appointed Market Maker). An ''Appointed Market Maker'' is a MIAX Market Maker (who does not otherwise have a corporate affiliation based upon common ownership with an EEM) that has been appointed by an EEM and an ''Appointed EEM'' is an EEM (who does not otherwise have a corporate affiliation based upon common ownership with a MIAX Market Maker) that has been appointed by a MIAX Market Maker, pursuant to the following process. A MIAX Market Maker appoints an EEM and an EEM appoints a MIAX Market Maker, for the purposes of the Fee Schedule, by each completing and sending an executed Volume Aggregation Request Form by email to *membership@miaxoptions.com* no later than 2 business days prior to the first business day of the month in which the designation is to become effective. Transmittal of a validly completed and executed form to the Exchange along with the Exchange's acknowledgement of the effective designation to each of the Market Maker and EEM will be viewed as acceptance of the appointment. The Exchange will only recognize one designation per Member. A Member may make a designation not more than once every 12 months (from the date of its most recent designation), which designation shall remain in effect unless or until the Exchange receives written notice submitted 2 business days prior to the first business day of the month from either Member indicating that the appointment has been terminated. Designations will become operative on the first business day of the effective month and may not be terminated prior to the end of the month. Execution data and reports will be provided to both parties.

[11] 15 U.S.C. 78f(b).

[12] 15 U.S.C. 78f(b)(4).

[13] 15 U.S.C. 78f(b)(1) and (b)(5).

[14] 15 U.S.C. 78f(b)(4).

market quality for all market participants. Additionally, the Exchange believes that for competitive and business reasons, it is now appropriate to decrease the cPRIME Agency Order Credit in PCRP Tier 4 to be aligned with existing cPRIME Agency Order Credits in PRCP Tiers 1, 2 and 3.

In addition, the proposal is also consistent with Section 6(b)(5) of the Act [15] because it perfects the mechanisms of a free and open market and a national market system and protects investors and the public interest because, by aligning the credit offered to Members in Tier 4 to the credits offered for the same types of orders in Tiers 1, 2 and 3, Priority Customer order flow will be increased and an increase in Priority Customer order flow will bring greater volume and liquidity, which benefit all market participants by providing more trading opportunities and tighter spreads. To the extent Priority Customer order flow is increased by the proposal, market participants will increasingly compete for the opportunity to trade on the Exchange including sending more orders and providing narrower and larger-sized quotations in the effort to trade with such Priority Customer order flow.

The Exchange's proposal to establish an alternative cPRIME Agency Order Credit amount for cPRIME Agency Orders in Tier 4 of the PCRP that will apply instead of the credit otherwise applicable to such orders, if a certain threshold is satisfied by the Member is consistent with Section 6(b)(4) of the Act [16] because it applies equally to all participants with similar order flow in that tier. The Exchange believes that the proposed alternative threshold by which any Member or its Affiliate that qualifies for PCRP volume Tier 4 and executes Priority Customer standard, non-paired complex volume at least equal to or greater than their Priority Customer cPRIME Agency Order volume, on a monthly basis, receives a credit of $0.22 per contract for cPRIME Agency Orders instead of the credit otherwise applicable to such orders in Tier 4 is fair, equitable, and not unreasonably discriminatory because it will encourage Members to submit both Priority Customer standard, non-paired complex orders and Priority Customer complex orders, which will increase liquidity, which benefit all market participants by providing more trading opportunities and tighter spreads. The PCRP is reasonably designed because it will incentivize providers of Priority Customer order flow to send that Priority Customer order flow to the Exchange in order to obtain the highest volume threshold and receive a credit in a manner that enables the Exchange to improve its overall competitiveness and strengthen its market quality for all market participants.

In addition, the proposal is also consistent with Section 6(b)(5) of the Act [17] because it perfects the mechanisms of a free and open market and a national market system and protects investors and the public interest because, while only certain Priority Customer order flow qualifies for the rebate program under the PCRP and specifically only order flow by Members in Tier 4 of the PCRP that meet the additional threshold will receive the greater rebate, an increase in Priority Customer order flow will bring greater volume and liquidity, which benefit all market participants by providing more trading opportunities and tighter spreads. To the extent Priority Customer order flow is increased by the proposal, market participants will increasingly compete for the opportunity to trade on the Exchange including sending more orders and providing narrower and larger-sized quotations in the effort to trade with such Priority Customer order flow.

B. Self-Regulatory Organization's Statement on Burden on Competition

MIAX Options 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 decrease to the cPRIME Agency Order Credit assessable to cPRIME Agency Orders by Members in Tier 4 of the PCRP is intended to promote consistency across all cPRIME Agency Order tiers of the PCRP. The Exchange believes that aligning the cPRIME credits assessable to cPRIME Agency Orders in all tiers will not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act because it will continue to encourage Priority Customer order flow and an increase in Priority Customer order flow will bring greater volume and liquidity, which benefit all market participants by providing more trading opportunities and tighter spreads. The Exchange further believes that its proposal to establish an alternative cPRIME Agency Order Credit amount for cPRIME Agency Orders in Tier 4 of the PCRP that will apply instead of the credit otherwise applicable to such orders, if a certain threshold is satisfied by the Member will not have an impact on intra-market competition. Specifically, the Exchange believes that the proposal to establish an additional threshold by which any Member or its Affiliate that qualifies for PCRP Tier 4 and executes Priority Customer standard, non-paired complex volume at least equal to or greater than their Priority Customer cPRIME Agency Order volume, on a monthly basis, receives a credit of $0.22 per contract for cPRIME Agency Orders instead of the credit otherwise applicable to such orders in Tier 4, will encourage Members to submit both Priority Customer standard, non-paired complex orders and Priority Customer complex orders, which will increase liquidity, which benefits all market participants by providing more trading opportunities and tighter spreads. Because the proposal offers an additional threshold by which a Member can receive a higher credit for cPRIME Agency Orders instead of the credit otherwise applicable to such orders in Tier 4, and aligns the credits otherwise offered for such orders in all tiers, the Exchange believes that the proposed rule change will not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

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 fees to remain competitive with other exchanges and to attract order flow. The Exchange believes that the proposed rule change reflects this competitive environment because they modify the Exchange's fees in a manner that encourages market participants to provide liquidity and to send order flow 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,[18] and Rule

[15] 15 U.S.C. 78f(b)(1) and (b)(5).

[16] 15 U.S.C. 78f(b)(4).

[17] 15 U.S.C. 78f(b)(1) and (b)(5).

[18] 15 U.S.C. 78s(b)(3)(A)(ii).

19b–4(f)(2)[19] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission 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–2019–09 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–2019–09. 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–2019–09 and should be submitted on or before April 9, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[20]

Eduardo A. Aleman,

Deputy Secretary.

[FR Doc. 2019–05085 Filed 3–18–19; 8:45 am]

BILLING CODE 8011–01–P

[19] 17 CFR 240.19b-4(f)(2).

[20] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF STATE

[Public Notice: 10711]

U.S. Advisory Commission on Public Diplomacy; Notice of Meeting

The U.S. Advisory Commission on Public Diplomacy will hold a public meeting from 10:30 a.m. until 12:00 p.m., Thursday, April 11, 2019, at the U.S. Capitol Visitor Center in Room SVC–209–208 (First St. NE, Washington, DC 20515). The focus of the meeting will be the Department of State's multi-year Public Diplomacy modernization effort.

This meeting is open to the public, including the media and members and staff of governmental and non-governmental organizations. Any requests for a reasonable accommodation for a disability should be sent by email to Michelle Bowen at *BowenMC1@state.gov* by 5:00 p.m. on Thursday, April 4, 2019. Attendees should plan to arrive for the meeting by 10:15 a.m. to allow for a prompt start.

The U.S. Advisory Commission on Public Diplomacy appraises U.S. government activities intended to understand, inform, and influence foreign publics. The Advisory Commission may conduct studies, inquiries, and meetings, as it deems necessary. It may assemble and disseminate information and issue reports and other publications, subject to the approval of the Chairperson, in consultation with the Executive Director. The Advisory Commission may undertake foreign travel in pursuit of its studies and coordinate, sponsor, or oversee projects, studies, events, or other activities that it deems desirable and necessary in fulfilling its functions.

For more information on the U.S. Advisory Commission on Public Diplomacy, please visit *www.state.gov/pdcommission.* For more information on the upcoming public meeting, contact the Commission's Designated Federal Official, Jeff Daigle, at *DaigleJJ@state.gov*.

John J. Daigle,

Designated Federal Official, Advisory Commission on Public Diplomacy, Department of State.

[FR Doc. 2019–05041 Filed 3–18–19; 8:45 am]

BILLING CODE 4710–45–P

SURFACE TRANSPORTATION BOARD

[Docket No. AB 1270]

Port of Benton, Wash.—Adverse Discontinuance of Rail Service—Tri-City Railroad Company, LLC

On February 27, 2019, the Port of Benton, Wash. (the Port), filed an application under 49 U.S.C. 10903 requesting that the Surface Transportation Board (the Board) authorize the third-party, or ''adverse,'' discontinuance of operating authority held by Tri-City Railroad Company, LLC (Tri-City), a Class III carrier, over approximately 10.89 miles of main line track (16 miles including sidings and connecting spur tracks), from MP 18.84 at Richland Junction to MP 29.73 at Horn Rapids Road in Richland, Wash. (the Line). The Line traverses U.S. Postal Service Zip Codes 99336, 99352, and 99354, and includes the stations of: (1) Richland Junction (MP 18.84); (2) Steptoe Street (MP 19.63); (3) Irrigation Canal Bridge (MP 19.74); (4) Columbia Park Trail Overpass (MP 19.96); (5) Yakima River Bridge (MP 21.0); (6) Pedestrian Bike Path (MP 21.14); (7) City Dock (MP 21.51); (8) Jadwin Avenue (MP 22.03); (9) Berry's Overpass Bridge (MP 22.64); (10) Duportail Street (MP 23.60); (11) Cemetery Road (MP 24.47); (12) Van Giesen Street (MP 25.45); (13) Airport Way (MP 26.04); (14) Lamb Weston (MP 26.46); (15) ConAgra (no milepost); (16) Saint Street (MP 26.92); (17) State Highway 240 (MP 26.97); (18) Tri-City Yard (MP 27.40); (19) N. Ladder (MP 28.59); (20) City Track (MP W28.9); (21) Battelle Blvd. (MP 29.22); and (22) Horn Rapids Road (MP 29.73).

According to the Port, it acquired the Line in 1998, with BNSF Railway Company (BNSF) and Union Pacific Railroad Company (UP) as operators on the Line. The Port states that, pursuant to a 2002 lease, Tri-City began operating over and maintaining the Line. The Port now seeks Board authority through an adverse discontinuance proceeding to terminate Tri-City's regulatory authority

to lease and operate the Line. The Port asserts that service to customers will not be affected because both BNSF and UP hold operating rights to serve all customers and have stated their willingness to provide all service once Tri-City's service ends.

In decisions served in this proceeding on October 31, 2018, and February 21, 2019, the Port was granted exemptions from several statutory provisions as well as waivers of certain Board regulations that the Board concluded were unnecessary, difficult, or impossible for the Port to comply with in filing its application.

According to the Port, the Line does not contain federally granted rights-of-way. Any documentation in the Port's possession will be made available promptly to those requesting it. The Port's entire case for discontinuance was filed with the application.

Any interested person may file written comments concerning the proposed adverse discontinuance or protests (including protestant's entire opposition case) by April 15, 2019. Persons who may oppose the proposed adverse discontinuance but who do not wish to participate fully in the process by submitting verified statements of witnesses containing detailed evidence should file comments. Persons opposing the proposed adverse discontinuance who wish to participate actively and fully in the process should file a protest, observing the filing, service, and content requirements of 49 CFR 1152.25. The Port's reply is due by April 29, 2019.

All filings in response to this notice must refer to Docket No. AB 1270 and must be sent to: (1) Surface Transportation Board, 395 E Street SW, Washington, DC 20423–0001; (2) John D. Heffner, Clark Hill, PLC, 1001 Pennsylvania Ave. NW, Suite 1300 South, Washington, DC 20004; and (3) Eric Hocky, Clark Hill, PLC, 2005 Market Street, Philadelphia, PA 19103.

Filings may be submitted either via the Board's e-filing format or in the traditional paper format. Any person using e-filing should comply with the instructions found on the Board's website at *www.stb.gov,* at the ''E–FILING'' link. Any person submitting a filing in the traditional paper format should send the original and 10 copies of the filing to the Board with a certificate of service. Except as otherwise set forth in 49 CFR pt. 1152, every document filed with the Board must be served on all parties to this adverse discontinuance proceeding. 49 CFR 1104.12(a).

Persons seeking further information concerning discontinuance procedures may contact the Board's Office of Public Assistance, Governmental Affairs, and Compliance at (202) 245–0238 or refer to the full discontinuance regulations at 49 CFR pt. 1152. Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1–800–877–8339.

Board decisions and notices are available at *www.stb.gov.*

Decided: March 14, 2019.

By the Board, Allison C. Davis, Acting Director, Office of Proceedings.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. 2019–05154 Filed 3–18–19; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. FAA–2019–0153]

Recommendations for Facilities Realignments To Support Transition to NextGen as Part of Section 804 of the FAA Modernization and Reform Act of 2012—Parts 4 & 5; Request for Comments

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Notice of availability; request for comments.

SUMMARY: This document announces the availability of the FAA National Facilities Realignment and Consolidation Report, Parts 4 & 5. The report was developed in response to Section 804 of the FAA Modernization and Reform Act of 2012. The report and recommendations contained therein have been developed collaboratively with the National Air Traffic Controllers Association (NATCA) and the Professional Aviation Safety Specialists (PASS) labor unions and with input from stakeholders. The FAA seeks comments on this report.

DATES: Send comments on or before May 3, 2019.

ADDRESSES: Send comments identified by docket number FAA–2019–0153 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov* and follow the online instructions for sending your comments electronically.
- *Mail:* Send comments to Docket Operations, M–30; U.S. Department of Transportation (DOT), 1200 New Jersey Avenue SE, Room W12–140, West Building Ground Floor, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* Take comments to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- *Fax:* Fax comments to Docket Operations at 202–493–2251.

Privacy: The FAA will post all comments it receives, without change, to *http://www.regulations.gov,* including any personal information the commenter provides. Using the search function of the docket website, anyone can find and read the electronic form of all comments received into any FAA dockets, including name of the individual sending the comment (or signing the comment for an association, business, labor union, etc.). DOT's complete Privacy Act Statement can be found in the **Federal Register** published on April 11, 2000 (65 FR 19477–19478), as well as at *http://DocketsInfo.dot.gov.*

Docket: Background documents or comments received may be read at *http://www.regulations.gov* at any time. Follow the online instructions for accessing the docket or visit Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: William Middleswart, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; email: *Section804-Public-Comments@faa.gov.*

SUPPLEMENTARY INFORMATION:

Background

Section 804 of the FAA Modernization and Reform Act of 2012 (Pub. L. 112–95) requires the FAA to develop a plan for realigning and consolidating facilities in an effort to support the transition to NextGen and reduce costs where such cost reductions can be implemented without adversely affecting safety. To address Section 804 requirements, the FAA formed a collaborative workgroup of representatives from the FAA and NATCA and PASS labor unions to develop a comprehensive process to analyze different realignment and consolidation scenarios. The collaborative process takes into account the following factors and criteria when prioritizing facilities for realignment analysis: NextGen readiness; operational and airspace factors; existing facility conditions and workforce impacts; industry stakeholder input; costs and benefits associated with each potential realignment alternative; facilities and

engineering planning and priorities; and employee career development.

The collaborative workgroup developed the guiding principles and criteria for evaluating existing Terminal Radar Approach Control (TRACON) operations. The principles support the goals of developing operationally viable realignment and consolidation scenarios, capturing recommendations, and outlining next steps. The workgroup has developed a repeatable and defensible process to evaluate facility TRACON operations and prioritize for analysis; determine an initial set of realignment scenarios and a set of alternatives for each scenario; collect facility and operational data and document system requirements; document facility, equipment, infrastructure, operational and safety data; capture qualitative workforce considerations, including training, transition, facility, and potential workforce impacts of potential realignments; consider potential impacts on operations, airspace modifications, route/fixes changes, arrival/departure procedures, intra/inter-facility coordination, and pilot community interaction; collect and consider industry stakeholder input; quantify benefits and cost of potential realignments; and develop a recommendation for each realignment scenario.[1] A copy of the National Facilities Realignment and Consolidation Report, Parts 4 & 5 has been placed in the docket for this notice. The docket may be accessed at *http://www.regulations.gov.* A copy of the report has also been made available on the FAA's website at *http://www.faa.gov/regulations_policies/rulemaking/recently_published/.*

The realignment recommendations outlined in the National Facilities Realignment and Consolidation Report, Parts 4 & 5 are the result of a collaborative process that involved a multi-disciplinary team of FAA management, labor, field facilities, finance, and subject matter experts. The Section 804 process serves as a stable foundation for future realignment analyses and recommendations. The process aims to maximize operational, administrative, and maintenance efficiencies, support transition to NextGen, and deliver the highest value to stakeholders.

The FAA is requesting comments on this report pursuant to Section 804 of the FAA Modernization and Reform Act of 2012. The agency will consider all comments received on or before May 3, 2019. Following a 60-day comment review period, the final report along with public comments will be submitted to Congress. The FAA continues to analyze data collected from facilities across the United States and evaluate possible realignment scenarios.

Issued in Washington, DC, on March 7, 2019.

William Middleswart,

Section 804 Analysis Program Manager, Management Services, Federal Aviation Administration.

[FR Doc. 2019–05165 Filed 3–18–19; 8:45 am]

BILLING CODE 4910–13–P

[1] The National Facilities Realignment and Consolidation Report, Part 1 was published in the **Federal Register** on March 26, 2015 (80 FR 16078) (docket no.: FAA–2015–0693). The National Facilities Realignment and Consolidation Report, Part 2 was published in the **Federal Register** on June 7, 2016 (81 FR 36650) (docket no.: FAA–2016–4000). The National Facilities Realignment and Consolidation Report, Part 3 was published in the **Federal Register** on July 17, 2017 (82 FR 32750) (docket no.: FAA–2017–0706).

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

Limitation on Claims Against Proposed Public Transportation Projects

AGENCY: Federal Transit Administration (FTA), DOT.

ACTION: Notice.

SUMMARY: This notice announces final environmental actions taken by the Federal Transit Administration (FTA) for projects in Tarrant, Dallas, and Collin Counties, Texas and Marion County, Indiana. The purpose of this notice is to announce publicly the environmental decisions by FTA on the subject projects and to activate the limitation on any claims that may challenge these final environmental actions.

DATES: By this notice, FTA is advising the public of final agency actions subject to 23 U.S.C. 139(l). A claim seeking judicial review of FTA actions announced herein for the listed public transportation projects will be barred unless the claim is filed on or before August 16, 2019.

FOR FURTHER INFORMATION CONTACT: Nancy-Ellen Zusman, Assistant Chief Counsel, Office of Chief Counsel, (312) 353–2577 or Juliet Bochicchio, Environmental Protection Specialist, Office of Environmental Programs, (202) 366–9348. FTA is located at 1200 New Jersey Avenue SE, Washington, DC 20590. Office hours are from 9:00 a.m. to 5:00 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION: Notice is hereby given that FTA has taken final agency actions by issuing certain approvals for the public transportation projects listed below. The actions on the projects, as well as the laws under which such actions were taken, are described in the documentation issued in connection with the projects to comply with the National Environmental Policy Act (NEPA) and in other documents in the FTA environmental project file for the projects. Interested parties may contact either the project sponsor or the relevant FTA Regional Office for more information. Contact information for FTA's Regional Offices may be found at *https://www.fta.dot.gov.*

This notice applies to all FTA decisions on the listed projects as of the issuance date of this notice and all laws under which such actions were taken, including, but not limited to, NEPA [42 U.S.C. 4321–4375], Section 4(f) requirements [23 U.S.C. 138, 49 U.S.C. 303], Section 106 of the National Historic Preservation Act [54 U.S.C. 306108], and the Clean Air Act [42 U.S.C. 7401–7671q]. This notice does not, however, alter or extend the limitation period for challenges of project decisions subject to previous notices published in the **Federal Register**. The projects and actions that are the subject of this notice are:

1. Project name and location. Cotton Belt Corridor Regional Rail Project, Tarrant, Dallas, and Collin Counties, Texas. *Project Sponsor:* Dallas Area Rapid Transit (DART). *Project description:* The project will provide a new 26-mile double-track regional commuter rail line extending from Dallas-Fort Worth International Airport (DFW Airport) Terminal B in Tarrant County to Shiloh Road in Plano, connecting with the existing DART Orange Line at DFW Airport, the Green Line in Carrollton, and the Red Line in the Plano/Richardson area. The commuter line will have 10 stations and will traverse through 3 counties in Texas: Tarrant, Dallas, and Collin; and 7 cities: Grapevine, Coppell, Dallas, Carrollton, Addison, Richardson, and Plano. The project includes a procurement of eight diesel multiple unit vehicles and construction of an equipment maintenance facility to store and maintain vehicles. Based on review of the Draft EIS and consideration of public and agency comments, FTA, as the lead agency, and FAA, as a cooperating agency, issued a combined FEIS/ROD for the Cotton Belt Corridor Regional Rail Project on November 9, 2018. Nothing in this notice affects FTA's previous decisions, or notice thereof, for this project. *Final agency actions:* Section 4(f) *de minimis* impact determination; Section 106 finding of

adverse effect and Memorandum of Agreement (MOA) dated September 25, 2018; project-level air quality conformity; and Final Environmental Impact Statement/Record of Decision, dated November 9, 2018. *Supporting documentation:* Draft Environmental Impact Assessment for the Cotton Belt Corridor Regional Rail Project, dated April 10, 2018.

2. Project name and location: The Purple Line Bus Rapid Transit Project, Marion County, Indiana. *Project sponsor:* The Indianapolis Public Transportation Corporation. *Project description:* The Purple Line Bus Rapid Transit Project will implement a mixed-traffic/dedicated lane Bus Rapid Transit (BRT) route that is part of a system-wide expansion of both local route and BRT services identified in the Marion County Transit Plan. The approximately 14.8-mile BRT route will serve northern and eastern Marion County, connecting the Julia M. Carson Transit Center in downtown Indianapolis with the Ivy Tech Community College in Lawrence. The Purple Line BRT system consists of 31 BRT stations, including 7 shared stations with the Red Line BRT, which will be constructed prior to the Purple Line BRT, as well as 23 new Purple Line stations. A potential 24th station location is being considered at Otis Avenue and Wheeler Road near the Lawrence terminus. Project infrastructure improvements include the construction of sidewalks, a new multi-use path along East 38th Street, drainage improvements, pavement replacement, new traffic signals, and a new multi-use path along the north side of East 38th Street between Tacoma and Sheridan Avenues. This notice only applies to the discrete actions taken by FTA at this time, as described below. Nothing in this notice affects FTA's previous decisions, or notice thereof, for this project. *Final agency actions:* Section 4(f) *de minimis* impact determination; Section 106 finding of adverse effect and MOA dated February 7, 2019; project-level air quality conformity; and determination of the applicability of a Documented Categorical Exclusion pursuant to 23 CFR 771.118(d) dated February 22, 2019. *Supporting documentation:* Documented Categorical Exclusion checklist and supporting materials, dated February 2019.

Elizabeth S. Riklin,

Deputy Associate Administrator for Planning and Environment.

[FR Doc. 2019–05093 Filed 3–18–19; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2019–0017]

Nuro, Inc.; Receipt of Petition for Temporary Exemption for an Electric Vehicle With an Automated Driving System

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Notice of receipt of petition for temporary exemption; request for public comment.

SUMMARY: Nuro, Inc. (Nuro) has petitioned NHTSA for a temporary exemption from certain requirements in Federal Motor Vehicle Safety Standard (FMVSS) No. 500, which establishes standards for ''Low-speed vehicles,'' on the basis that an exemption would make the development or field evaluation of a low-emission vehicle easier without unreasonably lowering the safety of that vehicle. The vehicle for which Nuro requests an exemption is a low-speed, highly automated delivery vehicle intended to be operated without any human occupants and thus designed without any seating. Specifically, Nuro requests exemptions from the requirements in FMVSS No. 500 that its vehicle be equipped with rearview mirrors, a windshield that complies with FMVSS No. 205, and a rear visibility (backup camera) system that complies with FMVSS No. 111. Nuro states that the absence of human occupants, combined with the vehicle's various safety design features, including the vehicle's Automated Driving System (ADS), make compliance with these provisions of FMVSS No. 500 either unnecessary for, or detrimental to, the safety of pedestrians and cyclists.

NHTSA is publishing this document in accordance with statutory and administrative provisions, and requests comments on this document and the petition submitted by Nuro. NHTSA will assess the merits of the petition and decide whether to grant or deny it after receiving and considering the public comments on this notice, the petition, public responses to the questions in this notice and such additional information as Nuro may provide.

DATES: Comments on this petition must be submitted by May 20, 2019.

FOR FURTHER INFORMATION CONTACT: Stephen Wood or Daniel Koblenz, Office of Chief Counsel, National Highway Traffic Safety Administration, 1200 New Jersey Avenue SE, Washington, DC 20590. Telephone: 202–366–2992; Fax: 202–366–3820.

Comments: NHTSA invites you to submit comments on the petition described herein and the questions posed below. You may submit comments identified by docket number in the heading of this notice by any of the following methods:

- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.
- *Hand Delivery:* 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12–140, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.
- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.

Instructions: All submissions must include the agency name and docket number. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. Please see the Privacy Act discussion below. NHTSA will consider all comments received before the close of business on the comment closing date indicated above. To the extent possible, NHTSA will also consider comments filed after the closing date.

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov* at any time or to 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays. Telephone: 202–366–9826.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, to *www.regulations.gov,* as described in the system of records notice, DOT/ALL–14 FDMS, accessible through *www.dot.gov/privacy.* In order to facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered. If you wish to provide comments containing proprietary or confidential information, please contact the agency for alternate submission instructions.

Confidential Business Information: If you wish to submit any information under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Chief Counsel, NHTSA, at the address given under **FOR FURTHER INFORMATION CONTACT**. In addition, you should submit two copies, from which you have deleted the claimed confidential business information, to Docket Management at the address given above. When you send a comment containing information claimed to be confidential business information, you should include a cover letter setting forth the information specified in our confidential business information regulation (49 CFR part 512).

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I. Introduction

This document notifies the public that NHTSA has received from Nuro Inc. (''Nuro'') a petition for a temporary exemption from three requirements of FMVSS No. 500, which establishes standards for ''Low-speed vehicles.'' Nuro submits its request on the basis that an exemption would make the development or field evaluation of a low-emission vehicle easier without unreasonably lowering the safety of that vehicle.[1] The vehicle that is the subject of the petition is the ''R2X,'' which Nuro describes as a highly automated (SAE Level 4 or simply L4),[2] low-speed (25 mph maximum), electric-powered delivery robot. According to Nuro, the R2X would be designed to carry cargo exclusively, and accordingly would not have any passenger compartment or designated seating positions. The provisions of FMVSS No. 500 from which Nuro requests an exemption are the requirements that low speed vehicles (LSVs) be equipped with (1) rearview mirrors, (2) an FMVSS No. 205-compliant windshield, and (3) an FMVSS No. 111-compliant rear visibility (backup camera) system. Because this vehicle would not have any designated seating positions, Nuro states that the vehicle should not be required to have any seatbelts, and, thus, does not need an exemption from that requirement. Nuro requests a two-year exemption, during which it seeks to be allowed to introduce fewer than 2,500 exempted vehicles into interstate commerce for each 12-month period covered by the exemption.[3]

This notice solicits comments from the public to inform NHTSA's analysis of the merits of Nuro's petition under the low-emission vehicle exemption basis in 49 U.S.C. 30113. To this end, this notice includes requests for comments and poses specific questions regarding issues that NHTSA believes could be relevant in deciding whether to grant the petition. If commenters believe that there are other potentially relevant issues, NHTSA invites them to identify those issues and explain their potential relevance.

II. Background

a. Statutory Authority and Regulatory Requirements for Temporary Exemption Petitions

The National Traffic and Motor Vehicle Safety Act (Safety Act), codified at Chapter 301 *et seq.,* of title 49, United States Code, authorizes the Secretary of Transportation to exempt, on a temporary basis, under specified circumstances, and on terms the Secretary deems appropriate, motor vehicles from a FMVSS or bumper standard. This authority is set forth at 49 U.S.C. 30113. The Secretary has delegated the authority for implementing this section to NHTSA.[4]

The Safety Act authorizes the Secretary (by delegation, NHTSA) to grant, in whole or in part, a temporary exemption to a vehicle manufacturer if certain specified findings are made. The Secretary must look comprehensively at the request for exemption and find that the exemption is consistent with the public interest and with the objectives of the Vehicle Safety Act.[5]

In addition, the Secretary must make one of the following more-focused findings:

(i) Compliance with the standard[s] [from which exemption is sought] would cause substantial economic hardship to a manufacturer that has tried to comply with the standard[s] in good faith;

(ii) the exemption would make easier the development or field evaluation of a new motor vehicle safety feature providing a safety level at least equal to the safety level of the standard;

(iii) the exemption would make the development or field evaluation of a low-emission motor vehicle easier and would not unreasonably lower the safety level of that vehicle; or

(iv) compliance with the standard would prevent the manufacturer from selling a motor vehicle with an overall safety level at least equal to the overall safety level of nonexempt vehicles.[6]

The third of these additional findings is the basis for Nuro's request for exemption. Nuro requests the Secretary to grant its petition based on a finding that the exemption is consistent with the public interest and with the Safety Act, and that the exemption would facilitate the development or field evaluation of a low-emission motor vehicle and would not unreasonably reduce the safety level of that vehicle.[7] The statute further states that, for exemptions under this subsection, ''a record of the research, development, and testing establishing that the motor vehicle is a low-emission motor vehicle and that the safety level of the vehicle is not lowered unreasonably by exemption from the standard'' must also be included in the application.

NHTSA established 49 CFR part 555, ''Temporary Exemption from Motor

[1] In the balance of this document, we will refer to this as the ''low-emission vehicle exemption basis.'' For more information, *see* 49 U.S.C. 30113(b)(3)

[2] The SAE International automation levels are commonly used to describe the degree to which a motor vehicle can operate autonomously. The levels of automation range from Level 0 (no automation) to Level 5 (complete automation with no limitations). A Level 4 (L4) vehicle such as the R2X is considered to have ''high driving automation'' which means that the vehicle can perform 100 percent of the driving task within the vehicle's operational design domain.

[3] Nuro has requested that the agency withhold as confidential business information the precise number of vehicles it expects to deploy if an exemption is granted.

[4] 49 CFR 1.95.

[5] 49 U.S.C. 30113(b)(3)(A).

[6] 49 U.S.C. 30113(b)(3)(B).

[7] 49 U.S.C. 30113(b)(3)(B)(iii).

Vehicle Safety and Bumper Standards,'' to implement the statutory provisions concerning temporary exemptions. The requirements in 49 CFR 555.5 state that the petitioner must set forth the basis of the petition by providing the information required under 49 CFR 555.6, and the reasons why the exemption would be in the public interest and consistent with the objectives of the Safety Act.

A petition justified on the low-emission vehicle exemption basis must include the following information specified in 49 CFR 555.6(c):

(1) Substantiation that the vehicle is a low-emission vehicle;

(2) Research, development, and testing documentation establishing that a temporary exemption would not unreasonably degrade the safety or impact protection of the vehicle;

(i) A detailed description of how the motor vehicle equipped with the low-emission engine would, if exempted, differ from one that complies with the standard;

(ii) If the petitioner is presently manufacturing a vehicle conforming to the standard, the results of tests conducted to substantiate certification to the standard;

(iii) The results of any tests conducted on the vehicle that demonstrate its failure to meet the standard, expressed as comparative performance levels; and

(iv) Reasons why the failure to meet the standard does not unreasonably degrade the safety or impact protection of the vehicle.

(3) Substantiation that a temporary exemption would facilitate the development or field evaluation of the vehicle; and

(4) A statement of whether the petitioner intends to conform to the standard at the end of the exemption period; and

(5) A statement that not more than 2,500 exempted vehicles will be sold in the U.S. in any 12-month period for which an exemption may be granted.

b. Low-Speed Vehicles and FMVSS No. 500

Nuro states that the R2X would be a LSV. NHTSA defines an LSV as a motor vehicle: (1) That is 4-wheeled; (2) Whose speed attainable in 1.6 kilometers (1 mile) is more than 32 kilometers per hour (20 miles per hour) and not more than 40 kilometers per hour (25 miles per hour) on a paved level surface; and (3) whose gross vehicle weight rating (GVWR) is less than 1,361 kilograms (3,000 pounds).[8]

Unlike other vehicle categories that must meet a wide array of FMVSSs and other standards, LSVs are only required to meet a single standard: FMVSS No. 500.[9] Currently, FMVSS No. 500 requires that LSVs be equipped with headlamps, stop lamps, turn signal lamps, taillamps, reflex reflectors, parking brakes, rearview mirrors, windshields, seat belts for all designated seating positions, a vehicle identification number and a rear visibility (backup camera) system.

NHTSA created the LSV classification and FMVSS No. 500 in June 1998 in response to safety concerns over the growing use of golf carts and other similar-sized, 4-wheeled ''Neighborhood Electric Vehicles'' (NEVs) on public roads.[10] In developing FMVSS No. 500, NHTSA determined that, given the speed and weight limitations of the LSV classification, and the closed or controlled environments in which LSVs typically operate (usually planned communities and golf courses), there was not a safety need to apply the full range of FMVSS to them. Thus, the safety equipment required under FMVSS No. 500 is far more limited than what is required for other vehicle categories. Examples of FMVSS that are not applicable to LSVs include but are not limited to requirements related to antitheft, structural integrity, and flammability.

Of the eleven requirements in FMVSS No. 500, Nuro states that it intends to meet seven requirements, believes that the requirement related to seat belts is inapplicable as the vehicle lacks any designated seating positions, and petitions for exemption from the remaining three requirements. First is S5(b)(6), which requires that LSVs be equipped with an exterior (rearview) mirror mounted on the driver's side, and either an exterior mirror mounted on the passenger's side of the vehicle or an interior mirror.[11] Second is S5(b)(8), which requires that LSVs be equipped with a windshield that conforms to FMVSS No. 205. Third is S5(b)(11), which requires that LSVs be equipped with a rear visibility (backup camera) system that conforms to the requirements of S6.2 of FMVSS No. 111.

III. Nuro's Petition

The following discussion provides: An overview of the R2X based on information submitted in Nuro's petition; Nuro's explanation of why it believes exemption is justified under the low-emission vehicle exemption basis; and the information that Nuro provided regarding the safety of its vehicle.[12]

a. Overview of the ''R2X'' Low-Speed Automated Delivery Robot

Nuro contends that the R2X would be fundamentally different from any other vehicle with motive power currently regulated by NHTSA. Intended to provide retailers with local ''last-mile'' delivery services, the R2X would be designed without an occupant compartment (and thus, without any designated seating positions), nor is there any clear way for a human to enter the interior of the vehicle to use it for transportation. Instead, the R2X would be equipped with storage compartments in which goods, such as groceries, home goods, and hardware, may be placed for delivery to customers in urban or suburban ''neighborhood'' environments. See Figure 1 below showing the R2X with its gull wing cargo hatch covers open. To enable the operation of a vehicle lacking any occupant compartment, the R2X would be driven entirely by an L4 Automated Driving System (ADS), described in more detail below.

[8] 49 CFR 571.3

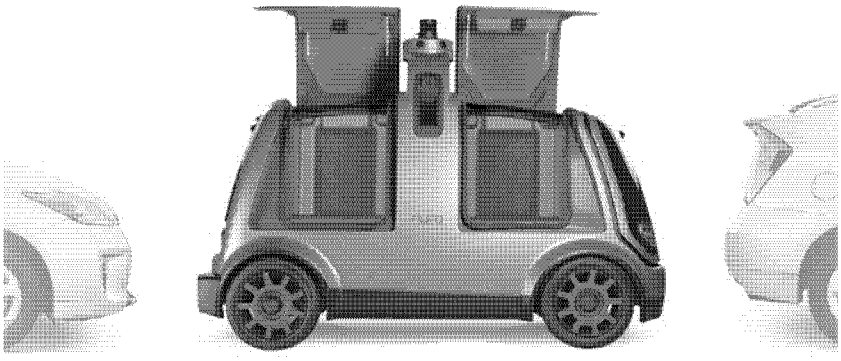
[9] FMVSS No. 141, ''Minimum sound requirements for hybrid and electric vehicles,'' will apply to LSVs once it is phased in on September 1, 2020.

[10] 63 FR 33194 (June 17, 1998).

[11] These rearview mirrors are not required to conform to FMVSS No. 111.

[12] NHTSA notes that the statements in the description of Nuro's petition are attributable to Nuro. NHTSA will review and assess those statements in deciding whether to grant the petition.

Figure 1. Picture of R2X (Source: https://nuro.ai/product/)



Nuro states that the R2X's propulsion system would be electric, and states it would be a low-emission vehicle as defined under Section 202 of the Clean Air Act because it would be a zero-emission vehicle that emits regulated air pollutants at levels ''significantly below'' what is permitted for new motor vehicles. Nuro also avers that the R2X would meet the elements of the LSV definition as follows:

(1) An LSV must be 4-wheeled—Nuro states that the R2X would have 4 wheels;

(2) An LSV must be capable of attaining a maximum speed of between 32 kilometers per hour and 40 kilometers per hour (20 miles per hour and 25 miles per hour) within 1.6 kilometers (1 mile) on a paved level surface—Nuro states that the R2X would be able to achieve a maximum speed of not more than 40 kilometers per hour (25 miles per hour);[13] and

(3) An LSV must have a GVWR less than 1,361 kilograms (3,000 pounds). 49 CFR 571.3. Nuro also states that the vehicle would have an ''unladen'' weight (*i.e.,* curb weight) of 1,134 kilograms (2,500 pounds), and that the vehicle's GVWR would be less than the 1,361-kilogram (3,000-pound) limitation in the LSV definition. (A vehicle's ''curb weight'' is its unloaded weight, whereas a vehicle's GVWR is its loaded weight rating as specified by the manufacturer.) We note that Nuro does not provide the precise GVWR of the R2X, which is needed to determine whether the R2X would properly be classified as an LSV.

Nuro also describes the aspects of the R2X that would permit automated driving, namely the L4 ADS and the suite of cameras, LIDAR[14] and radar sensors which provide the ADS information about the driving environment. As noted above, one of the key features that would make the R2X unique is that the driving task would be automated through the use of an L4 ADS. Nuro indicates throughout its petition that it has designed the R2X's ADS to operate the vehicle on low-speed surface roads in ''neighborhood'' environments.[15] According to Nuro, the R2X would be equipped with 12 high definition cameras, radar sensors, and a top-mounted LIDAR that together provide the ADS with a 360° view of the vehicle's surroundings. Nuro states that these cameras would be waterproof, rated to International Electrotechnical Commission (IEC) standard IP69K,[16] and able to operate in temperatures between −40 °Celcius (C) and 85 °C. However, Nuro does not provide information on the operational capabilities of the radar and LIDAR systems.

Regarding the ADS itself, Nuro states that its software would rely on ''advanced machine learning'' to improve its driving capabilities.[17] Nuro explains this to mean that the driving performance of the ADS would improve as the system is exposed to new or unfamiliar driving situations, which Nuro has thus far done using on-road testing and simulations. Nuro states it has conducted two on-road testing programs to develop the ADS used in the R2X.[18] For the first program, Nuro retrofitted FMVSS-certified passenger vehicles with its ADS, and states that it has ''continuously operated'' these retrofitted vehicles (with a safety driver backup) on public roads for the past year. For the second program, Nuro operated a prototype of the R2X on the company's private testing facility, which Nuro says is intended to simulate driving conditions in urban and suburban neighborhood settings. Nuro's petition did not include additional information concerning either of these programs, including how many miles were driven and in what conditions. In addition, Nuro says that it has supplemented these real-world testing programs with testing in a wide variety of simulated environments. Nuro states that these testing programs have led to continuous safety improvements to the ADS, although Nuro does not provide the metrics by which the company measures the safety of the ADS, nor does Nuro provide specific information about how the ADS's decision-making process works beyond general statements that the ADS would avoid collisions with obstacles.

Nuro states that the R2X is intended to make ''short neighborhood trips'' to provide last-mile delivery services for retailers in urban or suburban neighborhood settings. Nuro states that the R2X would have ''built-in'' operational limits that are consistent with this intended use, such as a maximum speed of 25 mph, and being restricted to marked surface streets that

[13] We note that Nuro does not state whether the R2X is physically incapable of going faster, or whether its speed is limited by something that can be readily modified, such as software. As NHTSA has noted in prior interpretation letters, some modifications to vehicles are so fundamental that the agency would consider the act of modifying the vehicle to be the manufacture of a new vehicle. See letter to Susan Gabel (Feb. 16, 2005), available at *https://isearch.nhtsa.gov/files/GF009529.html.* Modifying a vehicle in such a way as to change its vehicle classification category arguably arises to that level of importance. In NHTSA's view, because the safety features of an LSV are so fundamentally tied to its low speed and weight, changing its maximum speed or its weight to exceed the limits in the definition could be regarded as tantamount to the manufacture of a new vehicle of another classification.

[14] A LIDAR system, or a *Li*ght *D*etection *A*nd *R*anging system, measures distance to objects by sending out pulses of light and measuring the time it takes for pulses to be reflected off objects back to the LIDAR system.

[15] Nuro petition at 2, 3, 4, 8, 10, & 18.

[16] Conformity to IEC IP69K indicates resistance to dust, steam, and high-pressure water.

[17] Nuro petition, at 5.

[18] Nuro petition, at 18–19.

Nuro has extensively pre-mapped.[19] (Nuro specifically notes that it does not intend to relax these operational restrictions to permit Level 5 automation for the R2X.) Nuro states that, to ensure the safety and reliability of exempted vehicles, it does not intend to lease or sell them.[20] Instead, Nuro intends to own and centrally operate the entire fleet of R2Xs through partnerships with local businesses such as retailers. The petition, though, does not provide further information about what Nuro means by ''short neighborhood trips'' or the operational limits Nuro would place on the R2X vehicles.

For additional background information on Nuro's vehicle, see Nuro's report ''Delivering Safety: Nuro's Approach'' at *https://static1.squarespace.com/static/57bcb0e02994ca36c2ee746c/t/5b9a00848a922d8eaecf65a2/1536819358607/delivering_safety_nuros_approach.pdf.*

b. Why Nuro Believes That Granting Its Petition Would Facilitate the Development or Field Evaluation of a Low-Emission Motor Vehicle

Nuro requests an exemption on the basis that an exemption is necessary to facilitate the development and field evaluation of a low-emission vehicle [21] (its R2X vehicle) and would not unreasonably lower the safety of that vehicle as compared to a vehicle that complies with the standard. Nuro claims that the exemption would facilitate the development the R2X's ADS, which is necessary for developing and evaluating its low-emission R2X.

Nuro states that because the R2X's ADS relies on advanced machine learning to improve its level of safety, the R2X must be exposed to new driving scenarios. Nuro's existing testing programs have consisted of operating its FMVSS-compliant vehicle on public roads autonomously, and operating the R2X in its private test track. Nuro argues that this testing has led to consistent improvements in the ADS's driving performance, but that it has ''nearly exhausted the safety gains'' it can accrue from its existing research and testing programs. Accordingly, Nuro argues that an exemption is needed to enable Nuro to perform a greater volume of real-world testing on public roads, which the company says would ''expose the R2X to a greater variety of real-world situations than can be achieved in simulation or through the use of other FMVSS-compliant hardware platforms.'' [22] In addition, Nuro states that testing with ADS-equipped traditional passenger vehicles does not provide Nuro with information on how other road users would react to the R2X's unique design, which is a critical element of the vehicle's safety.

c. Why Nuro Believes That Granting Its Petition Would Not Unreasonably Degrade Safety

For each of the three FMVSS No. 500 requirements from which Nuro requests an exemption, Nuro provides an analysis explaining why granting an exemption would not unreasonably degrade the safety of the R2X. Nuro's safety analyses focus on the specific safety purposes that underlie the three individual requirements from which an exemption is sought, and discuss whether there is a safety need for each requirement on a vehicle that is controlled by an ADS. Using this framework, Nuro argues that an exemption from the three requirements in the petition would either not affect vehicle safety, or would improve vehicle safety. Nuro's analyses of the safety impacts of granting its three requested exemptions are summarized below.

i. Exterior Mirror Requirement

Per FMVSS No. 500, S5(b)(6), all LSVs must be equipped with ''an exterior mirror mounted on the driver's side of the vehicle and either an exterior mirror mounted on the passenger's side of the vehicle or an interior mirror.'' Nuro states the R2X would differ from a compliant LSV because it would not be equipped with either exterior or interior mirrors for rear visibility. Nuro explains that the R2X would instead use a sensor-based system to detect obstacles and other objects in the surrounding environment.

Nuro argues that an exemption from the mirror requirement would not unreasonably lower the safety of the R2X because the ADS does not use mirrors to perceive its surroundings for purposes of operating the vehicle.[23] Rather, the R2X's ADS perceives its surroundings using a suite of sensors that provide a continually-updated, complete 360-degree view of the area around the vehicle. Thus, Nuro argues that mirrors would not serve any safety purpose on the R2X, and that removing them would not lower safety.

Beyond not serving any safety function on the R2X, Nuro further argues that the presence of exterior mirrors may actually present a safety risk to pedestrians, and that removing them would improve the safety of the R2X. First, Nuro explains that because the R2X is designed to operate in pedestrian-heavy environments (neighborhood streets), it would contain various features that are intended to protect pedestrians in a crash. These features would include design elements such as rounded edges that avoid direct strikes, and pedestrian ''crumple zones'' to reduce the severity of impacts. Nuro states that equipping the R2X with the required mirrors would interfere with these features. Nuro also states that mirrors might increase the likelihood of pedestrian impacts because they would widen the R2X's profile, which may increase the risk of a collision in certain situations, such as when other road users pass the R2X too closely.

ii. Windshield Requirement

Per FMVSS No. 500, S5(b)(8), all LSVs are required to be equipped with ''a windshield that conforms to the Federal motor vehicle safety standard on glazing materials (49 CFR 571.205).'' Nuro states that the R2X would differ from a compliant LSV because it would not be equipped with a windshield of any kind. Instead, the front face of the R2X would be equipped with the various pedestrian safety features described in the previous section.

Nuro argues that exempting the R2X from the windshield requirement would not unreasonably lower the safety of the R2X principally for two reasons.[24] First, Nuro argues that the absence of human occupants in the R2X would make the windshield unnecessary for occupant protection because there would not be any risk that human occupants would could be injured by an impact with glazing or ejected from the R2X. Second, Nuro argues that there is not any need for a windshield to ensure driver

[19] Nuro petition, at 8.

[20] Nuro petition, at 3.

[21] The legislative history of the low-emission vehicle exemption basis indicates the purpose of the basis was to encourage the development of new vehicle propulsion technologies. First, according to the Congressional Record, Congress enacted the predecessor to the low-emission vehicle basis (which temporarily authorized NHTSA to grant an exemption if it ''would facilitate the development of vehicles utilizing a propulsion system other than or supplementing an internal combustion engine'') as part of the 1968 Amendment to the Safety Act, Public Law 90–283 (April 10, 1968), to encourage the development of new propulsion technologies to address problem of urban air pollution. *See* 114 Cong. Rec. 7285 (1968) (Statement of Rep. Murphy). In 1972, Congress replaced this temporary exemption authority with permanent authority, and revised the language to what is currently found in 49 U.S.C. 30113(b)(3)(B)(iii), Public Law 92–548 (October 25, 1972), so as ''not to stifle the development and evaluation of low-emission vehicles.'' 118 Cong. Rec. 34209 (1972) (Statement of Sen. Hartke).

[22] Nuro petition, at 19.

[23] Nuro petition, at 8–10.

[24] Nuro petition, at 10–12.

visibility because the driving task would be performed by the ADS, which would not require a transparent windshield to observe the driving environment.[25]

Nuro further states that meeting the windshield requirement could lower the safety of the R2X because the presence of a windshield made from FMVSS No. 205-compliant glazing could injure pedestrians in a collision due to its rigidity (if the glazing does not break), or due to the harm that could result if the glazing shatters. As noted in the previous section, Nuro argues that one of the primary pedestrian protection features of the R2X is that its design incorporates energy-absorbing pedestrian ''crumple zones'' that reduce collision impact severity. Nuro states that equipping the R2X with an FMVSS No. 205-compliant windshield would reduce the effectiveness of these pedestrian impact mitigation features.

Finally, Nuro notes that, while the R2X would not be equipped with a windshield, the front of the vehicle would be equipped with a ''plate'' that resembles the appearance of a windshield. Nuro states that this design is intended to indicate to other road users the front of the vehicle, which would provide visual cues as to the R2X's potential driving behavior, reducing confusion.

iii. Rear Visibility (Backup Camera) Requirement

FMVSS No. 500, S5(b)(11), requires that all LSVs ''comply with the rear visibility requirements specified in paragraph S6.2 of FMVSS No. 111 [Rear visibility].'' This requirement states that vehicles to which it applies must be equipped with a rear visibility (*i.e.,* backup camera) system that produces an image of the area immediately behind the vehicle under specified test conditions. The standard includes a number of provisions that are designed to minimize the risk of backover crashes, such as requirements for minimum image size and quality.[26] Nuro states that the R2X meets the ''field of view'' and ''image size'' requirements for rear visibility systems (FMVSS No. 111, S6.2.1–2),[27] but requests an exemption from the ''linger time'' and ''deactivation'' requirements (FMVSS No. 111, S6.2.4–5), which require that the rear visibility image be deactivated under certain specified conditions.

Nuro argues that exemption the R2X from the ''linger time'' and ''deactivation'' requirements would not unreasonably lower the safety of the vehicle because those requirements are intended to address a safety need that would not exist for the R2X. According to Nuro, the aspect of the ''linger time'' and ''deactivation'' requirements that is relevant to its request is that they both specify that the rear visibility image not be displayed when certain conditions are met. According to Nuro, the purpose of these requirements is to protect against the possibility that a driver would be distracted by the rear visibility image when travelling in the forward direction. Nuro states that this risk would not exist for the R2X because the R2X's ADS is not susceptible to distraction. Moreover, Nuro states that compliance with these requirements would be detrimental to the safety of the R2X, because compliance would require the R2X's rear-facing camera and sensors to be deactivated under certain conditions, effectively partially blinding the ADS.

In addition, while Nuro states that the R2X would meet the ''field of view'' and ''image size'' requirements, Nuro requests an exemption from four of the conditions in the test procedures that are used to verify compliance with those requirements because, according to Nuro, the R2X's various unconventional design features would make the test conditions impossible to perform. These four test conditions are ''fuel tank loading'' (S14.1.2.2), ''driver's seat positioning'' (S14.1.2.5), ''steering wheel adjustment'' (S14.1.7), and a portion of the ''image response time test procedure'' (S14.2). Although Nuro requests exemptions from these conditions, Nuro also suggests ways in which each of these four test conditions could be modified so that compliance could be verified using the R2X's remote operation capability. The following table summarizes Nuro's explanations for why these four required test conditions cannot be achieved with the R2X, and describes Nuro's suggestions for modifying the test conditions for the purpose of compliance verification:

[25] We note that NHTSA stated in the final rule establishing FMVSS No. 500 that the agency had decided to require LSVs to use passenger vehicle glazing (as opposed to other materials that may be more durable) due to concerns that the visibility provided by other materials might degrade over time. 63 FR at 33211.

[26] 79 FR 19177.

[27] Nuro's basis for stating that the R2X meets the Field of View and Image Size requirements is that the vehicle's extensive array of cameras and sensors ''display'' a constant live image of the entire area surrounding the vehicle to the ADS, including the area behind the vehicle that must be displayed by the rear visibility system. Nuro provides an illustration of the area observed by the R2X's rear-facing camera, which includes the area that must be displayed per FMVSS No. 111.

Required Test Condition	Reason it cannot be achieved	Proposed Modification
S14.1.2.2 "Fuel tank loading."	The R2X would be an electric vehicle runs on a charge in a battery, not on fuel in a fuel tank.	Conduct the test with the battery at full charge capacity.
S14.1.2.5 "Driver's seat positioning."	The R2X would not have a driver's seat, or designated seating position of any kind.	Treat a remote operator's seat as the driver's seating position.
S14.7 "Steering wheel adjustment."	The R2X would not have a steering wheel.	Conduct the test with the wheels pointed in the forward direction, as would be consistent with the test state in the standard.
S14.2 "Image response time test procedure."	The R2X would not have a driver's door to open or close.	Perform the test procedure using the cargo compartment doors, which are the primary method for accessing the interior of the R2X.

d. Why Nuro Believes That Its Vehicle Is a Low Emission Vehicle

In order to petition successfully under the low-emission vehicle exemption basis, the vehicle for which exemption is sought must meet the definition of ''low-emission motor vehicle'' at 49 U.S.C. 30113(a), meaning that it must be ''a motor vehicle meeting the standards for new motor vehicles applicable to the vehicle under section 202 of the Clean Air Act when the vehicle is manufactured and emitting an air pollutant in an amount significantly below one of those standards.'' [28]

Nuro argues that its vehicle would meet that definition:

> The R2X is a zero-emission vehicle. It will emit no hydrocarbons, carbon monoxide, oxides of nitrogen, or particulate matter, which are four of the air pollutants regulated under the Clean Air Act. Its emissions are therefore significantly below the Clean Air Act standards.[29]

e. Why Nuro Believes That Granting Its Petition Would Be in the Public Interest

Nuro argues that an exemption would be in the public interest because it states that the R2X would incorporate several design features to enable the ADS to operate reliably, and to minimize safety risks that may occur if the ADS malfunctions or otherwise encounters a driving situation it cannot handle. Further, according to Nuro, by allowing the company to develop a safer ADS, an exemption would lead to downstream environmental improvements and economic productivity.

i. ADS Safety

Throughout its petition, Nuro describes several design features or characteristics that it says illustrate the high level of safety that the R2X's ADS would provide. First would be the ADS's maneuvering capability. Nuro argues that the R2X's low GVWR, combined with the absence of human passengers, would make the R2X capable of stopping or performing emergency maneuvers that are not possible for heavier vehicles with passengers. Moreover, Nuro states that the fact that the R2X would not have any human occupants means that it ''has the unique opportunity to prioritize the safety of humans, other road users, and occupied vehicles over its own contents and chassis.'' [30] We note, however, that the petition does not provide information regarding the quality of the ADS's decision-making process when performing the driving task.

Nuro also states that the R2X would continuously perform self-diagnostics of vehicle systems. Nuro further states that safety-critical vehicle systems, including computing, steering, braking, and sensing systems would include redundancies for reliability, so that if a system or critical piece of equipment failed, the vehicle (including the ADS) would be able to continue operation. In the event that the R2X experienced a malfunction, the ADS' programming would enable it to identify and pull over to a safe location nearby. Nuro states that the ADS would continuously map the area surrounding the R2X to track pull over locations, and that, should the R2X's sensors fail, the ADS would pull the vehicle over using a trajectory calculated with data collected before the failure.

In addition to these on-board features, Nuro states that the R2X would at all times be monitored by ''experienced human operators who are extensively trained in the vehicle's systems,'' and would be able to take over driving control from the ADS if needed.[31] According to Nuro, these remote

[28] ''Motor vehicle,'' for Clean Air Act purposes, means ''any self-propelled vehicle designed for transporting persons or property on a street or highway,'' so it appears that the R2X would qualify. 42 U.S.C. 7550.

[29] Nuro Petition, at 7.

[30] Nuro petition, at 5.

[31] Training program described in the VSSA.

operators would play a similar backup safety role as safety drivers utilized in other ADS vehicle testing programs. Nuro states that situations in which a human operator might take over include the detection of a sensor malfunction, a ''pullover event,'' or the alerting by the ADS of the remote operator that it has encountered a situation for which human operator control is recommended. Nuro states that the remote operation system would ensure connection reliability by using ''several redundant, independent cellular connections with end-to-end encryption.'' Moreover, Nuro states that the R2X would avoid areas known to have weak cellular service by relying on Nuro's custom-built maps.

Nuro also identifies additional design features that it states would further support the safe operation of the ADS. For example, Nuro states that a number of vehicle components, including the braking system, would perform at the same level as full-speed passenger cars. In addition, Nuro states that the R2X would be equipped with a sound generator to alert other road users to the vehicle's presence and intent. These sounds are designed to mimic an internal combustion engine, and modulate based on the driving actions the R2X would take to indicate when the vehicle is accelerating and/or slowing down.

ii. Environmental and Economic Benefits

Nuro provides two additional non-safety based arguments for why granting its petition would be in the public interest. First, Nuro argues that the R2X would provide environmental benefits by reducing pollution. According to Nuro, the electricity that would power the R2X can come from a wide-variety of sources, including alternative fuels, and because the deliveries it would displace are trips that would otherwise likely be made in gasoline-powered privately-owned passenger vehicles. Nuro believes that the R2X could also decrease the number of total trips by efficiently combining trips. Nuro, however, does not provide further information about the capabilities of the R2X's propulsion system, such as its battery life, range, or efficiency. Second, Nuro argues that the R2X would increase economic productivity by, among other things, providing businesses with an additional option for delivering goods to local customers. These justifications are discussed in further detail in Nuro's petition.

IV. Agency Review

NHTSA has not yet made any judgment on the merits of Nuro's petition nor on the adequacy of the information submitted. NHTSA will assess the merits of the petition after receiving and considering the public comments on this notice and the petition and responses to the questions in this notice, as well as any additional information that the agency receives from Nuro. NHTSA is placing a non-confidential copy of the petition in the docket in accordance with statutory and administrative provisions. The agency will update the docket with any additional information it receives from Nuro and will extend or reopen the comment period for this petition as needed.

V. Terms

Once a manufacturer receives an exemption from the prohibitions of 49 U.S.C. 30112(a)(1), NHTSA can affect the use of those vehicles produced pursuant to the exemption only to the extent that NHTSA either has set terms in partially or fully granting the exemption or exercises its enforcement authority (*e.g.,* its safety defect authority). The agency's authority to set terms is broad. Since the terms would be the primary means of monitoring and affecting the safe operation of the exempted vehicles, the agency would consider carefully whether to establish terms and what types of terms to establish if it were to grant a petition. The manufacturer would need to agree to abide by the terms set for that exemption in order to begin and continue producing vehicles pursuant to that exemption.

Nothing in either the statute or implementing regulations limits the application of these terms to the period during which the exempted vehicles are produced. NHTSA could set terms that continue to apply to the vehicles throughout their normal service life if it deems that such application is necessary to serve the interests of safety.

Thus, if NHTSA were to grant an exemption, in whole or in part, it could establish, for example, reporting terms to ensure a continuing flow of information to the agency throughout the normal service life of the exempted vehicles, not just during the two-year period of exemption. Given the uniqueness of Nuro's vehicle, its petition, the myriad of public safety concerns surrounding an occupant-less vehicle operating on public roads, and the fact only a small portion of the total mileage that the vehicles (if exempted) could be expected to travel during their normal service life would have been driven by the end of the exemption period, NHTSA could require data to be reported over a longer period of time to enable the agency to make sufficiently reliable judgments. Such judgments might include those made in a retrospective review of the agency's determination about the anticipated safety effects of the exemption.

NHTSA could also establish terms to specify what the consequences would be if the flow of information were to cease or become inadequate during or after the exemption period. Other potential terms could include limitations on vehicle operations (based upon ownership and management, identified aspects of the operational design domains (ODD) such as speed, weather, road types, etc.). Conceivably, some terms could be graduated, *i.e.,* restrictions could be progressively relaxed after a period of demonstrated safe driving performance. Further, as with data-sharing, it may be necessary to specify that these terms would apply to the exempted vehicles beyond the two-year exemption period.

NHTSA notes that its regulations at 49 CFR part 555, ''Temporary exemption from motor vehicle safety and bumper standards,'' provides that the agency can revoke an exemption if a manufacturer fails to satisfy the terms of the exemption. NHTSA could also seek injunctive relief.

VI. Request for Comments and Information

NHTSA has set forth below a list of questions to elicit public feedback to aid the agency in determining how to address and resolve the variety of novel and important issues presented in the petition and how to promote, through the setting of terms, the safe operation of such vehicles if the agency ultimately decides to grant an exemption. Please note that answers supported by data and analysis will be given greater weight.

Nuro is also encouraged to submit any supplemental information to the agency that the petitioner may deem persuasive. Commenters are requested to provide specific references to all sources for all studies, data, assumptions, scientific reasoning, and methodology they cite or submit.

Statutory Basis for Exemption

The choice of the basis for an exemption petition can significantly affect the scope and depth of the safety analysis and finding that NHTSA must make in order to grant an exemption. In view of this, the agency asks the following questions:

1. To what extent and in what ways does the choice of the basis affect the scope, depth and appropriateness of the safety analysis and finding?

2. Is the basis for exemption (field evaluation of a low-emission vehicle (30113(b)(3)(B)(iii)) chosen by Nuro in its petition appropriate for the agency to use in determining whether to grant or deny an exemption for Nuro's vehicle? If not, what basis would be appropriate, and why?

3. In lieu of the low-emission basis, would it be more appropriate to consider Nuro's petition under 49 U.S.C. 30113(b)(3)(B)(ii) (field evaluation of a new motor vehicle safety feature) or 30113(b)(3)(B)(iv) (authority to grant exemptions from FMVSS for vehicles with an overall safety level at least equal to the overall safety level of nonexempt vehicles)? If so, why?

4. Independent of the agency's disposition of this petition, NHTSA seeks comment on whether, and if so how, the agency should also consider creating a new vehicle classification category for light and/or low-speed passengerless ADS vehicles like the R2X to which a subset of FMVSS requirements would apply.

The Development of a Low-Emission Vehicle

5. Nuro contends that an exemption is necessary facilitate the development of and LEV because it has ''exhausted the safety gains that can accrue'' from its current testing. Does the petition provide sufficient information to enable the agency to determine whether exempting the vehicle would make the development or field evaluation of a low-emission motor vehicle easier? If not, what additional information should the agency seek prior to rendering its final determination and why?

6. Does Nuro ADS's reliance on ''advanced machine learning'' to improve driving performance justify public on-road testing to obtain additional ADS safety gains? Are there diminishing returns to continued testing with passenger cars retrofitted with ADS functionality? If AI machine learning is being used to continuously change its ADS software, how should the safety of the ADS be monitored and evaluated?

Safety—General Questions

7. In determining whether to grant the petition, how should NHTSA consider whether an exemption would ''unreasonably lower the safety level''? Should this consideration be solely limited to safety level provided by the exempted standards or the safety of the vehicle more generally?

8. Is it appropriate for the agency to give any consideration to the quality of the performance of Nuro's ADS as part of its assessment whether granting Nuro's petition is in the public interest and consistent with the Safety Act?

9. How should safety considerations, including the performance of the ADS, be included in the ''terms'' of a granted exemption?

10. Does the petition provide sufficient information to enable the agency to determine whether exempting the vehicle would unreasonably degrade the safety of the vehicle? If not, what additional information should the agency seek prior to rendering its final determination and why?

Safety—Exempted Standards

11. Is Nuro correct in its conclusion that the safety purposes of the three requirements from which it is requesting an exemption are not relevant to the R2X because it would not have any occupants? Do these requirements serve any safety purposes beyond those discussed in the petition?

12. Regarding the rear visibility requirement, how would the agency assess whether the R2X actually would meet the ''field of view'' and ''image size'' requirements?

Safety—Performance of the ADS

13. To what degree could the R2X's capabilities or ODD be changed through post-deployment software updates over the lifetime of the R2Xs for which Nuro is seeking an exemption? While Nuro states that it does not intend to ''upgrade'' the R2X's ADS to L5, are there ODD or other changes Nuro should be able to make to the R2X over the lifetime of the vehicles? How should NHTSA address the possibility of such changes in conducting its safety analysis?

14. Did Nuro provide sufficient information about how the R2X would interact with human-controlled vehicles on the road? Should the agency be concerned about the front-end stiffness of the R2X and its impact on collision partners?

15. Did Nuro provide enough information about its design features to enable the ADS to operate reliably and to minimize safety risks that may occur if the ADS malfunctions or otherwise encounters a driving situation it cannot handle? If not, what should the agency ask to see?

16. Did Nuro provide enough information on development and testing to support the safety performance of the vehicle? Should more specificity on the types of sensors and their limitations be provided?

17. Did Nuro provide enough information about pedestrian detection and mitigation strategies? Would the R2X be able to sense and respond appropriately around school buses, emergency vehicles, neighborhood construction, etc.? Would the R2X be able to understand traffic laws?

18. What communication protocols should the R2X follow when faced with unexpected human interactions, such as being pulled over by a police officer or being directed through a construction zone by a road worker?

19. How should the R2X's ADS ''prioritize'' the safety of other road users?

20. What importance should NHTSA place on Nuro's statement that some safety-critical components in the R2X perform at the levels required under the FMVSS, even though those requirements are not applicable to LSVs?

21. Would the pedestrian safety features described in the petition (rounded edges, pedestrian ''crumple zones'') be effective in the environment in which the R2X would be used? Can the effectiveness of these measures be validated? If so, should NHTSA require Nuro to provide testing data to demonstrate the effectiveness of these measures?

22. Did Nuro's petition provide enough information regarding what types of ''trigger'' events would require the remote operator to take over? What sorts of events should ''trigger'' the remote operator to take over? Should these be specifically articulated as a term if the petition is granted? If so, did the petition provide sufficient information for the agency to establish such terms?

23. What additional situations and risk events (*e.g.,* weather) should NHTSA consider when assessing the safe operation of the vehicle?

24. Would the various fail-safe protocols described in the petition provide a sufficient level of safety? What criteria/methodology should be used to assess their sufficiency? If the protocols are believed to be sufficient, explain why. If the protocols are not believed to be sufficient, explain why and discuss how the fail-safe protocols could be improved to deal with both expected and unexpected situations and events, so that they would provide a sufficient level of safety?

25. Did Nuro provide sufficient information concerning the training of the remote operators? What should be the level of training of remote operators? How should they be trained? How should be they evaluated?

26. How should remote operators ''monitor'' the R2X's operation to detect reductions in or complete losses of its ADS' functionality (*i.e.,* could they observe the R2X's sensor readings in real time, or would they simply wait for the ADS to send an alert)? How much discretion should the remote operator have in deciding whether to take control or decommission the vehicle? For the range of circumstances in which the remote operator is free to exercise discretion, what guidance should Nuro provide regarding whether it would be appropriate to take control?

27. Nuro states, if it receives the exemptions, it ''would take a highly incremental and controlled approach to deployment'' which would include extensive evaluation and mapping of any area where the vehicles would be deployed, and that ''any early on-road tests would occur with human-manned professional safety drivers with override abilities supervising the vehicle for any anomalies in behavior.'' [32] Over what portion of the R2X's life would this level of supervision be provided? What would be the circumstances under which Nuro would reduce or eliminate its supervision? Once this initial testing period is over, what is the expected ratio of remote operators to R2Xs, and would this ratio change over time? What would be the human oversight protocol for the R2X once it is past the initial testing stage?

28. How frequently should Nuro update its maps for accuracy, especially with regard to the reliability of cellular data? What other information is mapped?

29. How should Nuro address the issue of the potential effects of cyber threats on safety? In particular, is Nuro's assurance of ''end-to-end encryption'' sufficient for the agency to grant an exemption? If not, what additional assurances should Nuro provide?

30. Are there any additional safety considerations that the agency should analyze in deciding whether to grant Nuro's petition?

Other Public Interest Considerations

31. We seek comment on whether the potential environmental and economic benefits described by Nuro in its petition are sufficient (or sufficiently likely to occur) to enable NHTSA to make a finding that an exemption is in the public interest and is consistent with the Safety Act, per 49 U.S.C. 30113(b)(3)(A).

32. In particular, we seek comment on whether a petitioner under the low-emission vehicle exemption basis must cite benefits that are directly related to the original purpose of 30113(b)(3)(B)(iii), which was to encourage the development of vehicles with low-emission propulsion technologies.[33]

Terms

33. If NHTSA were to grant Nuro's petition, what would be the potential utility of NHTSA's placing terms requiring the submission of the following categories of data?

a. Statistics on use (*e.g.,* for each functional class of roads, provide the number of miles, speed and hours of operation, climate/weather and related road surface conditions).

b. Statistics and other information on performance (*e.g.,* type, number, and causes, and results of collisions or near misses, disengagements, and transitions to fallback mechanisms, if appropriate). How can the term ''near miss'' best be defined so that there is uniform understanding of the term and consistent practices across manufacturers in the identifying and reporting of ''near misses''?

c. Metrics that the manufacturer is tracking to identify and respond to progress toward higher levels of safety (*e.g.,* miles without a crash and software updates that increase the ODD).

d. Information related to measures to be taken by Nuro to address community, driver and pedestrian awareness, behavior, concerns, and acceptance related to vehicles with an ADS.

e. Metrics or information concerning the durability of the ADS equipment and calibration, and need for maintenance of the ADS. For example, does the ADS work in all identified operating conditions or are there additional limitations? How are any limitations addressed and managed?

f. Data on the initial and subsequent ODDs and software updates.

g. For all categories of information, how should any concerns about confidential business information and privacy be addressed?

34. If there are other categories of data that should be considered, please identify them and the purposes for which they would be useful to the agency in carrying out its responsibilities under the Safety Act.

35. If the agency were to require the reporting of data, for what period should the agency require it to be reported—the two-year exemption period, the R2X's entire normal service life, or a time period in between?

36. Given estimates that vehicles with high and full driving automation would generate terabytes of data per vehicle per day, how should the need for data be appropriately balanced with the burden on manufacturers of providing and maintaining it and the ability of the agency to absorb and use it effectively?

37. If supporting information (including analysis, methodology, data, and computer simulation results involving proprietary systems or specialized computer programs) were submitted by Nuro under a request for confidential treatment and relied upon by the agency in its determination whether to grant or deny a petition, how can the public be provided with an evaluation and a justification for the determination that are transparent, readily understandable and persuasive?

38. Are there any mechanisms that may help further mitigate the underlying safety risks, if any, that might result from granting this petition? For example, what additional safety redundancies, if any, should NHTSA consider requiring as a condition to granting the exemption?

39. In the absence of information demonstrating the safe real-world operation of the Nuro vehicle, would it be prudent for NHTSA to place terms on the exemption to protect public safety? If so, what terms would be appropriate? In addition, what terms, if any, should the agency consider placing on an exemption to facilitate agency efforts to monitor the operations of exempted vehicles, and maximize the learning opportunities presented by the on-road experience of the exempted vehicles during the exemption period and thereafter?

VII. Comment Period

The agency seeks comment from the public on the merits of Nuro's petition for a temporary exemption from three requirements in FMVSS No. 500, ''Low-speed vehicles.'' We are providing a 60-day comment period. After considering public comments and other available information, we will publish a notice of final action on the petition in the **Federal Register**.

Please note that even after the comment closing date, we will continue to file relevant information in the docket as it becomes available. Further, some people may submit late comments. Accordingly, we recommend that you periodically check the Docket for new material. You can arrange with the docket to be notified when others file comments in the docket. See *www.regulations.gov* for more information. We will reopen or extend the comment period for this petition, as needed.

[32] Nuro petition, at 19.

[33] See footnote 21.

Authority: 49 U.S.C. 30113 and 49 U.S.C. 30166; delegations of authority at 49 CFR 1.95 and 49 CFR 501.8.

Issued in Washington, DC, under authority delegated in 49 CFR 1.95 and 501.8.

Heidi Renate King,

Deputy Administrator.

[FR Doc. 2019–05121 Filed 3–18–19; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2019–0016]

General Motors, LLC—Receipt of Petition for Temporary Exemption From Various Requirements of the Safety Standards for an All-Electric Vehicle With an Automated Driving System

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Notice of receipt of petition for temporary exemption; request for public comment.

SUMMARY: In accordance with the procedures in the *Temporary Exemption from Motor Vehicle Safety and Bumper Standards,* General Motors, LLC, (GM) has applied for a temporary exemption for its driverless ''Zero-Emission Autonomous Vehicle'' (ZEAV), an all-electric vehicle with an Automated Driving System (ADS), from part of each of 16 Federal Motor Vehicle Safety Standards (FMVSS). The ZEAVs would not be equipped with a steering wheel, manually-operated gear selection mechanism, or foot pedals for braking and accelerating. If the requested exemption were granted, GM would use the ZEAVs to provide on-demand mobility services in GM-controlled fleets.

GM requests the exemption be granted on either or both of two statutory bases: That it would facilitate the development or field evaluation of a new motor vehicle safety feature providing a level of safety at least equal to those of FMVSS from which exemption is requested, or that it would facilitate the development or field evaluation of a low-emission vehicle without unreasonably lowering the safety performance of the vehicle.

NHTSA seeks comment on the merits of and most appropriate statutory basis for GM's exemption petition and whether the petition satisfies the substantive requirements for an exemption.

NHTSA will assess the merits of the petition after receiving and considering the public comments on this notice, the petition, public responses to the questions in this notice, and any additional information that might be forthcoming from GM.

DATES: Comments must be received on or before May 20, 2019.

FOR FURTHER INFORMATION CONTACT: Stephen Wood or Justine Casselle, Office of the Chief Counsel, National Highway Traffic Safety Administration, 1200 New Jersey Avenue SE, Washington, DC 20590. Telephone: 202–366–2992; Fax: 202–366–3820.

Comments: NHTSA invites you to submit comments on the petition described herein and the questions posed below. You may submit comments identified by docket number in the heading of this notice by any of the following methods:

- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.
- *Hand Delivery:* 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12–140, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.
- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Instructions:* All submissions must include the agency name and docket number. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. Please see the Privacy Act discussion below. NHTSA will consider all comments received before the close of business on the comment closing date indicated above. To the extent possible, NHTSA will also consider comments filed after the closing date.

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov* at any time or to 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays. Telephone: 202–366–9826.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, to *www.regulations.gov,* as described in the system of records notice, DOT/ALL–14 FDMS, accessible through *www.dot.gov/privacy.* In order to facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered. If you wish to provide comments containing proprietary or confidential information, please contact the agency for alternate submission instructions.

Confidential Business Information: If you wish to submit any information under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Chief Counsel, NHTSA, at the address given under **FOR FURTHER INFORMATION CONTACT**. In addition, you should submit two copies, from which you have deleted the claimed confidential business information, to Docket Management at the address given above. When you send a comment containing information claimed to be confidential business information, you should include a cover letter setting forth the information specified in our confidential business information regulation (49 CFR part 512).

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I. Background

One of the key tasks of NHTSA, the agency responsible for issuing and enforcing the existing FMVSS, in getting ready for ADS vehicles is to ensure that those standards do not impose unnecessary obstacles to those vehicles. Most existing FMVSS were drafted years ago, based on the assumption that each vehicle would have a human driver who needs controls for manually operating the vehicle, information about the vehicle's operating condition, and a clear view in all directions of the driving environment in all weather and lighting conditions. While many of the existing FMVSS need to be updated so that they are appropriate for vehicles with modern technologies, they do not pose barriers to the manufacturing today of dual mode ADS vehicles, *i.e.,* ADS vehicles designed to be driven either by an ADS or a human driver. Some of them could, however, pose barriers to ADS vehicles designed to be driven exclusively by an ADS.

NHTSA can address the needs of exclusively ADS vehicles in different ways, depending on the time frame. In the longer term, it can conduct research on how to update the performance requirements and test procedures and then initiate rulemaking proceedings to modernize the FMVSS. In the near term, the agency can, if needed and merited, grant, in whole or in part, petitions from vehicle manufacturers to exempt limited numbers of their vehicles from select FMVSS so that the manufacturers can gain additional on-road experience. While established vehicle manufacturers can conduct on-road tests to evaluate their vehicles without first obtaining an exemption, if they wish to mix such testing with operations involving transporting the public, exemptions may, to that extent, be necessary.

In January 2018, GM submitted such a petition for the ZEAV, a vehicle designed to be driven exclusively by an ADS. GM requested the vehicle's temporary exemption from parts of each of 16 FMVSS.

This notice accomplishes two things. First, it serves as a notice of receipt of GM's petition. Second, it requests (a) comments on the petition and the discussion in this notice and (b) responses to a series of questions related to the petition.

While the analysis of exemption petitions based on rationales other than economic hardship generally involves comparing the relative safety of exempted vehicles and nonexempted vehicles, this is the first petition whose analysis by NHTSA will involve a comparison of (1) a vehicle in which all driving decisions as to when and how it is appropriate to use crash avoidance technologies and take actions to implement those decisions would be made by an ADS to (2) a vehicle in which almost all of those decisions are made and implemented by a human driver. This difference could affect the amount of safety benefits generated by Federally-mandated safety technologies.

Because this is an important case of first impression and because other petitions for the exemption of other vehicles with ADS are expected in the coming years, NHTSA believes that inclusion of the list of questions is necessary to inform the public about the novel and important issues presented by this petition and to elicit public feedback to aid the agency in determining how to address and resolve those issues. The feedback will also aid the agency, if it partially or fully grants an exemption, in determining how to promote, through the setting of terms and monitoring GM's adherence to them, the safe operation of GM's ZEAVs.

II. Authority and Procedures for Temporary Exemptions

Chapter 301 of title 49, United States Code, authorizes the Secretary of Transportation to exempt, on a temporary basis, under specified circumstances, and on terms the Secretary deems appropriate, motor vehicles from a FMVSS or bumper standard. This authority is set forth at 49 U.S.C. 30113. The Secretary has delegated the authority for implementing this section to NHTSA.[1]

The Safety Act authorizes the Secretary to grant, in whole or in part, a temporary exemption to a vehicle manufacturer if the Secretary makes specified findings. The Secretary must look comprehensively at the request for exemption and find that the exemption is consistent with the public interest and with the objectives of the Vehicle Safety Act.[2] In addition, the Secretary must make one of the following more focused findings:

(i) compliance with the standard[s] [from which exemption is sought] would cause substantial economic hardship to a manufacturer that has tried to comply with the standard[s] in good faith;

(ii) the exemption would make easier the development or field evaluation of a new motor vehicle safety feature providing a safety level at least equal to the safety level of the standard;

(iii) the exemption would make the development or field evaluation of a low-emission motor vehicle easier and would not unreasonably lower the safety level of that vehicle; or

(iv) compliance with the standard would prevent the manufacturer from selling a motor vehicle with an overall safety level at least equal to the overall safety level of nonexempt vehicles.[3]

The second and third of these additional findings are the bases for GM's request for exemption. First, GM requests the Secretary to grant its petition based on finding that an exemption is consistent with the public interest and with the Safety Act, and that the exemption would make easier the development or field evaluation of a new motor vehicle safety feature providing a safety level at least equal to the safety level of the standard.[4] Second, GM requests the Secretary to grant its petition on finding that the exemption is consistent with the public interest and with the Safety Act, and that the exemption would facilitate the development or field evaluation of a low-emission motor vehicle and would not unreasonably reduce the safety of that vehicle.[5]

NHTSA established 49 CFR part 555, *Temporary Exemption from Motor Vehicle Safety and Bumper Standards,* to implement the statutory provisions concerning temporary exemptions. The requirements in 49 CFR 555.5 state that the petitioner must set forth the basis of the petition by providing the information required under 49 CFR 555.6, and the reasons why the exemption would be in the public interest and consistent with the objectives of the Safety Act.

A petition justified on the basis that an exemption from a FMVSS would facilitate the development or field evaluation of a new motor vehicle safety feature providing a level of safety at least equal to the level of safety required by the standard must include the following information specified in 49 CFR 555.6(b):

(1) A description of the safety features, and research, development, and testing documentation establishing the innovational nature of such features;

(2) An analysis establishing that the level of safety of the feature is equivalent to or exceeds the level of safety established in the standard from which exemption is sought;

(i) A detailed description of how a vehicle equipped with the safety or impact protection feature differs from one that complies with the standard;

(ii) If applicant is presently manufacturing a vehicle conforming to the standard, the results of tests conducted to substantiate certification to the standard; and

[1] 49 CFR 1.94.

[2] 49 U.S.C. 30113(b)(3)(A).

[3] 49 U.S.C. 30113(b)(3)(B).

[4] 49 U.S.C. 30113(b)(3)(B)(ii).

[5] 49 U.S.C. 30113(b)(3)(B)(iii).

(iii) The results of tests conducted on the safety or impact protection features that demonstrates performance which meets or exceeds the requirements of the standard.

(3) Substantiation that a temporary exemption would facilitate the development or field evaluation of the vehicle;

(4) A statement whether, at the end of the exemption period, the manufacturer intends to conform to the standard, apply for a further exemption, or petition for rulemaking to amend the standard to incorporate the safety features; and

(5) A statement that not more than 2,500 exempted vehicles will be sold in the United States in any 12-month period for which an exemption may be granted pursuant to this paragraph.

A petition justified on the basis that an exemption would facilitate the development or field evaluation of a low-emission motor vehicle and would not unreasonably lower the safety level of that vehicle must include the following information specified in 49 CFR 555.6(c):

(1) Substantiation that the vehicle is a low-emission vehicle;

(2) Research, development, and testing documentation establishing that a temporary exemption would not unreasonably degrade the safety or impact protection of the vehicle;

(i) A detailed description of how the motor vehicle equipped with the low-emission engine would, if exempted, differ from one that complies with the standard;

(ii) If the applicant is presently manufacturing a vehicle conforming to the standard, the results of tests conducted to substantiate certification to the standard;

(iii) The results of any tests conducted on the vehicle that demonstrate its failure to meet the standard, expressed as comparative performance levels; and

(iv) Reasons why the failure to meet the standard does not unreasonably degrade the safety or impact protection of the vehicle.

(3) Substantiation that a temporary exemption would facilitate the development or field evaluation of the vehicle; and

(4) A statement of whether the petitioner intends to conform to the standard at the end of the exemption period; and

(5) A statement that not more than 2,500 exempted vehicles will be sold in the U.S. in any 12-month period for which an exemption may be granted.

III. GM's Petition

GM's petition seeks a two-year exemption from parts of each of 16 FMVSS for the production of 2500 or fewer ZEAVs per year.[6] Citing a report by Nidhi Kalra and David G. Groves,[7] GM argues ''(e)very day of delay in getting autonomous vehicles safely on American Roads is a day in which we are losing lives that could be saved.'' GM states that, during the exemption period, it would work with NHTSA and industry stakeholders on rulemaking to address autonomous vehicle technology.[8] GM states that if that rulemaking were not completed during the two-year exemption period, it would likely request a renewal of the exemption.[9] It also states that (if its petition were granted) it would operate any ZEAVs produced during the exemption period throughout their normal service life [10]—*i.e.,* well beyond the two-year exemption period.

GM provides the following explanation of how it organized the arguments in its petition:

GM seeks an ''exemption'' under two separate statutory provisions, 49 U.S.C. 30113(b)(3)(B)(ii) and (iii). As this Petition makes clear, ''exemption'' is a term of art that is a misnomer in this context because GM does not seek to be ''exempted'' from any safety requirements. Rather, through this Petition, GM seeks authorization to satisfy the safety purpose and intent of certain FMVSS requirements and tests through different designs and systems. Because the ZEAV satisfies the requirements of both provisions, NHTSA may grant this Petition under either or both provisions.

First, under 49 U.S.C. 30113(b)(3), NHTSA may issue an FMVSS exemption ''on finding that—(A) an exemption is consistent with the public interest and this chapter or chapter 325 of this title (as applicable); and (B) . . . the exemption would make the development or field evaluation of a low-emission motor vehicle easier and would not unreasonably lower the safety level of that vehicle.'' Thus, in order to justify an exemption, a petition under this provision must support three primary showings: The public interest showing; the low-emission showing; and the safety showing, as set forth in 49 U.S.C. 30113(b)(3)(B)(iii). These provisions of 30113(b)(3)(B)(iii) foster the same goals that GM pursues with this application: the development and prompt availability of new low-emission vehicles that improve consumer mobility and meet federal safety objectives embodied in the Safety Act. As demonstrated below, granting this Petition would make easier the development and field evaluation of GM's zero-emission autonomous vehicle, and GM's proposed deployment program fully satisfies the three requirements of 30113(b)(3)(B)(iii).

Second, this Petition also seeks an exemption on the independent basis that it will ''make easier the development [and] field evaluation of new motor vehicle safety features.'' Under 49 U.S.C. 30113(b)(3), NHTSA may also issue an exemption ''on finding that—(A) an exemption is consistent with the public interest and this chapter or chapter 325 of this title (as applicable); and (B) . . . the exemption would make easier the development or field evaluation of a new motor vehicle safety feature providing a safety level at least equal to the safety level of the standard.'' Thus, under this provision, the Petition must support three primary showings: the public interest showing; the development and evaluation of a new safety feature showing; and the FMVSS safety showing, as set forth in 49 U.S.C. 30113(b)(3)(B)(ii).

The discussion below supports findings that GM's proposed ZEAV deployment fully satisfies the three criteria of both 30113(b)(3)(B)(ii) and (iii), and that NHTSA should therefore grant the Petition.

In furtherance of this Petition, the discussion below contains:

- A description of GM's ZEAV program and the vehicle;
- A discussion of how the Petition should be evaluated under the Safety Act and NHTSA's regulations and procedures;
- A Standard-by-Standard description of how GM's ZEAV achieves the safety purposes of the affected human-driver based FMVSS requirements;
- An explanation of how granting this Petition will facilitate the development and field evaluation of a low-emission vehicle;
- A discussion of how granting this Petition will benefit the public interest; and
- A discussion of GM's plans for compliance with applicable FMVSS during and after the effective dates of the proposed exemption.

(Footnotes omitted.)

A. Zero Emission Automated Vehicle

i. Parent Vehicle—Chevrolet Bolt

The ZEAV would be built from the architecture of the Chevrolet Bolt EV.[11] GM describes its Bolt EV as a zero-emission vehicle, with an Environmental Protection Agency (EPA) estimated all-electric range of 238 miles on a full charge.[12] The company states it created the original prototypes for the ZEAV by retrofitting Bolt EVs with autonomous controls and equipment.[13]

ii. Comparison of Bolt and ZEAV

The Bolt EV and the ZEAV are both all-electric vehicles. GM did not indicate whether the motor and battery pack of the ZEAV would differ in any significant way from those of the Bolt EV. GM notes that the ZEAV would have electrification innovations incorporated from the Bolt EV, but does not elaborate on the nature, extent or importance of those innovations.[14]

As discussed later in this notice, GM notes that the ZEAV's high-performance computer system and array of sensors would draw power from the power supply for the zero-emission propulsion system, potentially affecting the range of the ZEAV. GM states that the all-electric

[6] GM Petition at 3.

[7] The Enemy of Good, Estimating the Cost of Waiting for Nearly Perfect Automated Vehicles, Rand Corp. (2017), available at *https://www.rand.org/pubs/research_reports/RR2150.html.*

[8] GM Petition at 38.

[9] *Id.*

[10] *Id.*

[11] *Id.* at 7.

[12] *Id.* at 7 and FN 11.

[13] *Id.* at 8.

[14] *Id.* at 7.

range of the ZEAV has not yet been determined.

There are significant differences between the Bolt EV and the ZEAV with respect to how they are designed to be driven and how safety systems would be activated. The Bolt EV is exclusively driven by a human driver. In contrast, the ZEAV would be exclusively driven by an ADS. More specifically, in relation to the *SAE International Levels of Automation 3–5—Automated Driving Systems (ADSs)—Conditional, High, and Full Automation,*[15] the Bolt EV's highest driving automation capability would be considered to be at automation Level 0 [16] and the ZEAV's capability at driving automation Level 4.[17]

The ZEAV's ADS would be a combination of various hardware and software components that function as a system to perform functions traditionally performed by human drivers, *i.e.,* perceive and interpret the driving environment, the objects in that environment, and their likely future movement, make decisions about accelerating, braking and steering so as to select and navigate safe paths through that environment and around those objects, and implement those decisions. While the Bolt EV is equipped with a steering wheel and brake and accelerator pedals, among other manual controls, the ZEAV would have none of these components. To emphasize this point, GM notes: ''By removing human input from the formula, these changes provide the safety advantages of autonomous transportation while ensuring that passengers cannot interfere, purposefully or inadvertently, with the safe operation of the vehicle.'' [18] These differences are further described in Appendix II of the petition. GM suggests that these differences might affect the range of the ZEAV.[19]

iii. Planned Usage of the ZEAV

GM states that if it were granted an exemption, it would deploy the ZEAVs in a GM-controlled rideshare program.[20] This approach would, GM says, allow it to ''closely monitor and address safety in every ZEAV deployed.'' [21] If an incident were to occur, GM states it ''could promptly analyze the situation in depth and address it.'' [22] According to GM, ''common factors such as human driver behavior, consumer failure to maintain the vehicle, and consumer failure to repair the vehicle or obtain recall repairs will not be factors for the safety of GM-maintained-and-operated ZEAV fleets.'' [23]

GM says that the operations of the ZEAVs would be carefully circumscribed, stating:

> GM's ZEAV fleet will operate only within defined geographic boundaries, and limited to predefined speeds and weather conditions. GM's limitations on the operation of its ZEAV fleet will enhance safety—limited speeds eliminate events due to driving above the speed limit, and weather restrictions reduce occurrences of safety system activations due to weather-related road conditions. GM's program parameters will reduce the number of miles that the ZEAVs will be driven in higher-risk situations, so the ZEAV is not likely to encounter many of the risk scenarios that other vehicles encounter.[24]

and:

> The vehicles will drive only in pre-mapped areas for which GM fully understands the infrastructure and conditions that the vehicles will encounter.[25]

GM notes, however, that while the ZEAVs would have not-to-exceed speeds, GM expects to increase their ''not-to-exceed speeds'' during the requested two-year exemption period.[26] GM further notes that while GM's ZEAVs would be weather restricted, GM expects to expand its operational design domain (ODD) for rain, snow, and winter driving during the proposed exemption period. GM does not address what additional changes, if any, it might make after that period.

B. Safety Showing

In support of both statutory bases cited in its petition for an exemption, GM asserts that, for each of the 16 FMVSS from which it seeks temporary exemption, in part or in full, the ZEAVs would ''effectively meet all FMVSS safety requirements'' and would provide a safety level at least equal to the safety level of the affected standard(s) as required by statute.[27] In order to deploy the ZEAVs, GM seeks a temporary exemption from the following FMVSS, either in whole or in part: No. 101, *Controls and Displays;* No. 102, *Transmission Shift Position Sequence, Starter Interlock, and Transmission Braking Effect;* No. 108, *Lamps, Reflective Devices, and Associated Equipment;* No. 111, *Rearview Mirrors;* No. 114, *Theft Protection and Rollaway Prevention;* No. 124, *Accelerator Control Systems;* No. 126, *Electronic Stability Control Systems;* No. 135, *Light Vehicle Brake Systems;* No. 138, *Tire Pressure Monitoring Systems;* No. 141, *Minimum Sound Requirements for Hybrid and Electric Vehicles;* No. 203, *Impact Protection for the Driver from the Steering Control System;* No. 204, *Steering Control Rearward Displacement;* No. 207, *Seating Systems;* No. 208, *Occupant Crash Protection;* No. 214, *Side Impact Protection;* and No. 226, *Ejection Mitigation.*

The following paragraphs paraphrase how the GM petition discusses each standard from which GM seeks exemption:

i. FMVSS No. 101

The purpose of FMVSS No. 101 is ''to ensure the accessibility, visibility and recognition of motor vehicle controls, telltales and indicators, and to facilitate the proper selection of controls. . .'' in order to reduce safety hazards caused by the diversion of the driver's attention from the driving task and mistakes by the driver in selecting controls.[28] Because the ZEAV would not be equipped with human driver controls and would not have a human driver, GM states that the requirements for certain controls, telltales and indicators should not apply [29] and requests an exemption from them. GM further states that, instead, its vehicle would be equipped with functionally equivalent ADS interfaces that provide the ADS with access to the information and controls necessary to drive the vehicle and maintain safety.[30]

ii. FMVSS No. 102

FMVSS No. 102 specifies requirements for transmission shift position sequence, starter interlock, and transmission braking effect. The purpose of these requirements is to reduce the likelihood of shifting errors, to prevent starter engagement by the driver when the transmission is in a drive position, and to provide supplemental braking at speeds below 25 mph. Paragraph S3.1.4 and its

[15] SAE J3016_201806 Taxonomy and Definitions for Terms Related to Driving Automation Systems for On-Road Motor Vehicles.

[16] *No Automation of driving task:* While the vehicle may provide warnings (*e.g.,* forward collision warning and blind-spot warning), the human driver must in all conditions and at all times perform all aspects of the driving task like monitoring the driving environment, steering, braking and accelerating.

[17] *Full Driving Automation:* The vehicle can perform all aspects of the driving task at all times and under all conditions. While the human occupants need to set the trip destination and start the ADS, they need never be involved in any aspects of the driving task.

[18] GM Petition at 12.

[19] *Id.*at 34.

[20] *Id.*at 5.

[21] *Id.* at 21.

[22] *Id.*

[23] *Id.* at 22.

[24] *Id.* at 13.

[25] GM Petition, Appendix III at 19.

[26] GM Petition at 21.

[27] *Id.* at 33.

[28] 49 CFR 571.101, paragraph S2.

[29] GM Petition at 23–24.

[30] *Id.* at 24.

subparagraphs require that identification of shift positions and shift position sequence be displayed in view of the driver. GM states that the ZEAV would not have a human driver, the information would be provided electronically to its ADS. GM further states that its vehicle would meet all other requirements of this standard.

iii. FMVSS No. 108

FMVSS No. 108 was established to provide adequate illumination of the roadway and to enhance the conspicuity of motor vehicles so that their presence is perceived by other roadway users and signals understood in daylight, darkness and reduced visibility.[31] GM explains that the ZEAV would use radar and lidar and would not rely on visible light and, therefore, operation of headlamp switches as required by the standard would be unnecessary.[32] GM explains that the vehicle would continue to use ordinary lower beams, but would not use upper beams.[33] GM further explains that the ZEAV would have ''interfaces that allow the ADS to receive, monitor, and analyze information otherwise provided by the telltales and indicators related to turn signals and headlamps, and to issue commands to control the headlamps and turn signals.'' [34]

iv. FMVSS No. 111

FMVSS No. 111 pertains to rearview visibility and requires rearview mirrors and images to provide a driver with a clear and reasonably unobstructed view to the rear. GM states that the ZEAV would include ''rear-facing cameras, radar sensors, and lidars that continuously provide full rear-field-of-view information to the ADS.'' [35] GM further states that its vehicle would have sensors that provide overlapping coverage and environmental information to the ADS, allowing it to perceive the vehicle's surroundings in ''significantly more breadth and detail than interior and exterior rearview mirrors provide to human drivers.'' [36]

v. FMVSS No. 114

GM asserts although the ZEAV would comply with the performance requirements of FMVSS No. 114, the test procedures in paragraph S6 should not apply and requests an exemption.[37] GM explains that its vehicle would not have conventional controls for the parking brake, service brake or transmission gear selection.[38] GM further explains that the ZEAV would be designed to enable the ADS to determine and control the brake system status electronically.[39]

vi. FMVSS No. 124

FMVSS No. 124 requires the return of the throttle to the idle position when the driver removes actuating force from the accelerator control (or if the accelerator control system is disconnected). GM states that the ADS would be the driver in the ZEAV, and therefore, the ADS would regulate vehicle propulsion.[40] As a result, GM suggests that FMVSS No. 124 should not apply and requests as exemption.[41] GM explains that its ADS would include two independent software controls that establish vehicle propulsion and asserts that its system could satisfy the time and temperature requirements of this standard.[42]

vii. FMVSS No. 126

The purpose of FMVSS No. 126 is to prevent driver loss of directional control, including loss of control resulting in vehicle rollover.[43] GM states that the ZEAV would have an Electronic Stability Control (ESC) system functionally similar to that of the Bolt EV.[44] However, the ZEAV would not have a steering wheel, brake or accelerator pedals, and could not be tested pursuant to paragraph S5.2 and paragraphs S7.6 through S7.9.[45] The ADS would electronically interface with the steering, braking and accelerator control systems.[46] Because there would be no human driver, GM also states that it would not meet the telltale requirements or related test protocols of paragraphs S5.3, S7.2, S7.3, S7.8 and S7.10.[47] GM asserts that it would ''run tests to ascertain the full functionality of the ESC system'' before deployment.[48] To do so, GM explains that it would use test versions of ZEAVs that differ from the vehicles described in this petition and that would be equipped with standard human driving controls (including steering, accelerator and brake controls).[49] GM asserts that its vehicle would meet the safety intent of this standard and states that it would certify compliance with the performance requirements of this standard based on the above described tests.[50]

viii. FMVSS No. 135

FMVSS No. 135 was established to ensure safe braking performance under normal and emergency driving conditions.[51] In GM's ZEAV, the ADS would control braking through commands to the brake control module as the vehicle would not be equipped with an accelerator pedal, a service brake pedal, or manual parking brake controls.[52] For that reason, GM states that human control requirements of paragraph S5.3.1, the telltale requirements of paragraphs S5.1.2, S5.5, S5.5.5, and the tests in paragraph S7 are not applicable and requests an exemption.[53] GM asserts that, because of the ADS, the vehicle would meet the performance requirements of this standard and the vehicle's braking system would satisfy the stopping distance and grade-holding performance requirements of this standard.[54] GM further asserts that its vehicle would undergo brake testing to demonstrate it meets the performance requirements before deployment.[55] To do so, GM would use test versions of ZEAVs that differ from the vehicles described in this petition in that they would be equipped with standard human driving controls (including steering, accelerator and brake controls).[56] GM states that it intends to certify compliance with the performance requirements of this standard based on those tests.[57]

ix. FMVSS No. 138

FMVSS No. 138 specifies requirements for tire pressure monitoring systems to warn drivers of underinflation of tires and the resulting safety problems. Paragraphs S4.3 and S4.4 require telltales visible to the driver. GM explains that the ZEAV would not have a driver seating position and would not include tire pressure telltales visible to vehicle occupants.[58] Instead, the vehicle's ADS would monitor the tire pressure electronically, detect low pressure, and recognize malfunctions in the tire pressure monitoring system.[59] To help in controlling the maintenance and operation of vehicle fleets, the ADS

[31] 49 CFR 571.108, paragraph S2.
[32] GM Petition at 25.
[33] *Id.*
[34] *Id.*
[35] *Id.* at 26.
[36] *Id.*
[37] *Id.* at 26.
[38] *Id.*
[39] *Id.*
[40] *Id.* at 27.
[41] *Id.*
[42] *Id.*
[43] 49 CFR 571.126, paragraph S2.
[44] GM Petition at 27.
[45] *Id.*
[46] *Id.*
[47] *Id.*
[48] *Id.*
[49] GM Petition, Appendix II at 15.
[50] GM Petition at 27 and Appendix II at 15.
[51] 49 CFR 571.135, paragraph S2.
[52] GM Petition at 28.
[53] *Id.*
[54] *Id.*
[55] *Id.*
[56] GM Petition, Appendix II at 15.
[57] GM Petition, Appendix II at 15.
[58] GM Petition at 29.
[59] *Id.*

would communicate tire pressure status to GM.[60]

x. FMVSS No. 141

FMVSS No. 141 specifies minimum requirements for hybrid and electric vehicles to reduce injuries resulting from collisions with pedestrians by providing a sound with the loudness and characteristics necessary for the vehicles to be detected and recognized as vehicles by pedestrians. GM asserts that it would test and certify its vehicle to meet this standard, but the ZEAV would not have a human-controlled gear selector to demonstrate compliance with paragraph S5 of this standard (which requires sounds to be produced when the gear selector is moved to the ''drive'' position or other forward gear).[61] GM explains that the ZEAV's ADS would communicate with the gear selector control actuators, and in response, trigger the sound emission performance required by this standard.[62]

xi. FMVSS Nos. 203, 204 and 207

FMVSS Nos. 203 and 204 relate to impact protection for the driver from a vehicle's steering control system (steering wheel and steering column) in the event of a crash. GM states that the ZEAV would not be equipped with a steering wheel or steering column; therefore, there is no risk of chest, neck or facial injury being caused by either.[63] GM asserts that computer simulation crash tests and subsequent physical crash tests would validate occupant protection for all seating positions.[64] Additionally, GM asserts that these tests would verify that ''the left front seating position safety protection provides occupant protection comparable to that provided to the right front seat passenger.'' [65] For these same reasons, and because there would not be a human driver, GM asserts that the FMVSS No. 207 requirement to have a seat for the driver also should not apply and requests an exemption.[66]

xii. FMVSS No. 208

GM makes the same assertion for certain paragraphs of FMVSS No. 208, which specifies test procedures and requirements for the driver's seating position. The purpose of this standard is to reduce the number of deaths and the severity of injuries by specifying vehicle crashworthiness and equipment requirements. Some paragraphs within this standard refer to positioning an anthropomorphic test device (''dummy'') in the driver position.[67] Because GM's ZEAV would not have a steering control system or a human driver, GM states that it is precluded from using the specified test procedures in this standard.[68] Instead, GM states that it would ''mirror the dummy-positioning provisions of the right front passenger seating position in the left front seating position.'' [69] Paragraph S7.3 specifies requirements for an audible and visual warning system for the driver seating position's seat belt assembly. Again, GM explains that because its vehicle would not have a driver, the vehicle's ADS would electronically receive the status of passengers' seat belt utilization.[70] GM stated that the vehicle's ADS would also provide seat belt reminders and warnings to all vehicle occupants before initiating a ride.[71] Finally, paragraph S4.5.2 requires that an air bag readiness indicator be visible from the driver's seating position to alert the driver that the vehicle's air bags may not function properly and may require service. GM states that this information would be provided to the ADS, instead of a human driver.[72] Because GM would control the operation of its vehicles, the company explains that it would receive diagnostics from the vehicles and thus would be able to determine whether further evaluation or repair is necessary.[73]

xiii. FMVSS No. 214

Paragraph S12 of FMVSS No. 214 also provides test procedures involving a dummy positioned in the driver seating position. The purpose of FMVSS No. 214 is to reduce the risk of injuries to vehicle occupants in side impact crashes. GM again asserts that it would ''mirror the right front test dummy positioning in the left front seating position'' and would utilize computer simulation crash tests and subsequent physical crash tests to validate occupant protection.[74]

xiv. FMVSS No. 226

FMVSS No. 226 relates to ejection mitigation in the event of a rollover. The purpose of this standard is to reduce the likelihood of ejections of vehicle occupants through side windows during rollovers or side impact crashes. Paragraph S4.2.2 of that standard requires a readiness indicator to be visible from the driver's seating position to alert the driver that the vehicle's curtain air bags may not function properly and may require service. Like the information provided by other indicators, GM states that this information would be provided to the ADS rather than a human driver.[75] Because GM would control the operation of its vehicles, the company again explains that it would receive diagnostics from the vehicles and thus would be able to determine whether further evaluation or repair is necessary.[76]

C. Low-Emission Showing

To be eligible for a temporary exemption on the grounds that the exemption would make development or field evaluation of a low-emission vehicle easier without unreasonably lowering the safety performance of the vehicle, the applicant must substantiate that the vehicle is a low-emission vehicle. To qualify as a low-emission vehicle under 49 U.S.C. 30113(a), the vehicle must meet the applicable standards for new motor vehicles under the Clean Air Act, 42 U.S.C. 7521, *et seq*. The EPA's regulations issued pursuant to the Clean Air Act establish exhaust emission thresholds for light-duty low-emission vehicles and zero-emission vehicles. To qualify as a zero-emission vehicle, a vehicle must meet the applicable standards specified at 40 CFR 88.104–94.

GM asserts that its vehicle would be ''an all-electric, zero-emission vehicle that does not utilize any form of combustion or emit any of the pollutants covered by Section 202 of the Clean Air Act.'' [77] According to GM, although this vehicle would share a platform with the Bolt EV, the vehicle's zero-emission propulsion system would perform differently because (1) the vehicle's computer system and sensors would draw power from the power supply for the propulsion system, and (2) the vehicle would be driven by the ADS.[78] GM believes that the real world field evaluation of this vehicle would ''generate valuable data about advantages and disadvantages of incorporating the sophisticated computer and sensors of an ADS in a

[60] *Id.*

[61] GM Petition at 29.

[62] *Id.*

[63] *Id.* at 29–30.

[64] *Id.* at 30.

[65] *Id.*

[66] *Id.* FMVSS No. 207 establishes requirements for seats, attachment assemblies and their installation to minimize the possibility of failure resulting from vehicle impact in a crash.

[67] *See, e.g.,* 49 CFR 571.208 at S10.3.1.

[68] GM Petition at 31.

[69] *Id.*

[70] *Id.*

[71] *Id.*

[72] *Id.*

[73] *Id.*

[74] *Id.* at 32.

[75] *Id.*

[76] *Id.*

[77] *Id.* at 34.

[78] *Id.*

zero-emission platform.'' [79] GM believes this data would allow it to evaluate the impact of a fully autonomous on-demand service on the performance of the zero-emission propulsion system.[80] GM states that granting this exemption would encourage the development and introduction of zero-emission autonomous vehicles by GM and other manufacturers.[81]

D. Public Interest Argument

GM asserts that granting this exemption would be beneficial to the public. GM states that the safety advances resulting from this exemption would have the potential to save lives and reduce motor vehicle crashes and injuries.[82] According to GM, granting the exemption would ''support thousands of jobs, increase urban mobility options, foster public acceptance of both low-emission and autonomous vehicles, generate important real-world data, and inform future NHTSA action.'' [83]

E. Appendices

In further support of its request for temporary exemption, GM's petition includes three appendices.

Appendix I provides additional information to support the petition on the basis of facilitating the development or field evaluation of a low-emission vehicle (49 CFR 555.6(c)).

Appendix II provides supplemental technical information, including an overview of the vehicle's ADS and external sensor system; how the vehicle processes and translates information to control vehicle movement; the vehicle's connectivity, redundancy and fail-safe functionality; GM's approach to testing the vehicle's ESC and brake systems; information on how the vehicle would interact with passengers in a ride-share scheme; and some test data.[84]

Appendix III details GM's approach to demonstrating how its safety assurance, comprehensive risk management and deep integration processes for its vehicle and ADS meet the Safety Act requirements.[85] Appendix III also provides additional information on cybersecurity,[86] passenger and other road-user interactions,[87] and fleet management.[88]

F. Clarification

In the section of its petition titled ''Evaluating Safety in a Petition for Exemption Under the Safety Act,'' GM speaks of the ''approach to safety regulation crafted by Congress in the Safety Act'' and states ''(t)hroughout its history, NHTSA has never created a new Standard (or a de facto Standard) before a new technology has entered commerce.'' A reader might incorrectly conclude from this statement that the agency could not and never has set requirements for or mandated a major technology prior to its entry into commerce. It is correct that NHTSA has chosen, as a matter of policy, not to do this in the last several decades, preferring instead to allow new technology to mature first. However, in November 1970, NHTSA issued a final rule establishing performance requirements for passive restraints.[89] The first passive restraints did not appear in on-road test fleets until 1971, and the first ones in vehicles available to the public did not arrive until 1973.[90]

IV. Agency's Review of GM's Petition

The agency has not yet made any judgment on the merits of the petition or on the adequacy of the information submitted. NHTSA will assess the merits of GM's petition after receiving and considering the public comments on this notice and the petition and responses to the questions in this notice, and any additional information that may be forthcoming from GM.

We note that GM identifies several tests that would be performed to demonstrate safety equivalence, which GM did not include in its petition, and which we presume had not been performed as of the submission of the petition. NHTSA is placing a non-confidential copy of the petition in the docket in accordance with statutory and administrative provisions. The agency will update the docket with any additional information it receives from GM and will reopen or extend the comment period for this petition as needed.

V. Potential Types of Terms

Once a manufacturer receives an exemption from the prohibitions of 49 U.S.C. 30112(a)(1), NHTSA can affect the use of those vehicles produced pursuant to the exemption only to the extent that NHTSA either sets terms when partially or fully granting the exemption or exercises its enforcement authority (*e.g.,* its safety defect authority). The agency's authority to set terms is broad. Since the terms would be the primary means of monitoring and affecting the safe operation of the exempted vehicles, the agency would consider carefully whether to establish terms and what types of terms to establish if it were to grant a petition. The manufacturer would need to agree to abide by the terms set for that exemption in order to begin and continue producing vehicles pursuant to that exemption.

Nothing in either the statute or implementing regulations limits the application of these terms to the period during which the exempted vehicles are produced. NHTSA could set terms that continue to apply to the vehicles throughout their normal service life if it deems that such application is necessary to serve the interests of safety.

Thus, if NHTSA were to grant an exemption, in whole or in part, it could establish, for example, reporting terms to ensure a continuing flow of information to the agency throughout the normal service life of the exempted vehicles, not just during the two-year period of exemption. Given the uniqueness of GM's vehicles, its petition, and public safety concerns, and especially given GM's expectations that the capabilities of the ZEAVs would evolve over their lifetime, extended reporting may be appropriate. Since only a portion of the total mileage that the vehicles, if exempted, could be expected to travel during their normal service life would have been driven by the end of the exemption period, the data would need to be reported over a longer period of time to enable the agency to make sufficiently reliable judgments. Such judgments might include those made in a retrospective review of the agency's determination about the anticipated safety effects of the exemption.

NHTSA could also establish terms to specify what the consequences would be if the flow of information were to cease or become inadequate during or after the exemption period. Other potential terms could include limitations on vehicle operations (based upon speed, weather, identified ODDs, road types, ownership and management, etc.). Conceivably, some conditions could be graduated, *i.e.,* restrictions could be progressively relaxed after a period of demonstrated driving performance. Further, as with data-sharing, it may be necessary to specify

[79] *Id.*

[80] *Id.*

[81] *Id.*

[82] *Id.* at 35.

[83] *Id.*

[84] GM Petition, Appendix II at 1.

[85] GM Petition, Appendix III at 1–2.

[86] *Id.* at 10.

[87] *Id.* at 18–19.

[88] *Id.* 19–21.

[89] 35 FR 16927, November 3, 1970. The full early history of the notices issued on passive restraints is set out in *Chrysler* v. *Department of Transportation*, 472 F2d 659, 664–666 (6th Cir. 1972).

[90] Automotive News, October 31, 2011. Available at *http://www.autonews.com/article/20111031/CHEVY100/310319928/impalas-1973-experimental-airbags-held-up.*

that these terms would apply to the exempted vehicles beyond the two-year exemption period.

NHTSA notes that its regulations at 49 CFR part 555 provide that the agency can revoke an exemption if a manufacturer fails to satisfy the terms of the exemption. NHTSA could also seek injunctive relief.[91]

VI. Request for Comments and Information

As noted above, the ADS in GM's ZEAV seeks to replicate and replace the complex perceiving and judging capabilities of a human driver. As GM states,

> With the ADS as the driver, there is no need for features designed to interface with a human driver, such as manual human driver controls (*e.g.,* steering wheel, brake pedal, and accelerator pedal), human-driver-specific information systems (*e.g.,* telltales and indicator lamps), human-driver-oriented visibility features (*e.g.,* rearview mirrors), or human-driver-specific occupant protection (*e.g.,* steering-wheel-mounted airbag).[92]

NHTSA anticipates that the complexity of the technologies involved in this petition will complicate its efforts to assess the safety performance of the ZEAVs. Further complicating those efforts will be the expected evolution of the capabilities of the ZEAVs throughout the course of their normal service life. This expectation is based on GM's statements in its petition that the ZEAVs would operate initially only in highly constrained driving scenarios, *e.g.,* at low speed, in daylight and fair weather, on streets with one lane in each direction, but later in progressively less constrained circumstances. As a result, the safety record of the ZEAVs during the potential two-year period of requested exemption might not be predictive of their safety record during balance of their normal service life.

An additional consideration raised by this petition is whether to set terms and conditions on the exemption and, if so, what terms and for what duration.[93]

Given the complexity of projecting the safety effects of granting an exemption in this instance, it might be desirable to require reporting to validate the agency's projections and monitor the safety record of the ZEAVs. If the agency were to decide to require reporting, it would take into consideration the possibility that reporting terms sufficient for an early stage of the ZEAV's normal service life may not be sufficient for a later stage. Because of the anticipated progressive relaxation of operating scenarios, early data might not be predictive of later data.

Thus, for the above reasons, and because this is an important case of first impression and petitions for other vehicles with similar ADS are expected in the coming years, NHTSA has set forth below a list of questions to elicit public feedback to aid the agency in determining how to address and resolve the variety of novel and important issues presented in the petition and how to promote, through the setting of terms, the safe operation of such vehicles if the agency ultimately decides to grant an exemption.

Please note that answers supported by data and analysis will be given greater weight. GM is also encouraged to submit any supplemental information to the agency that the petitioner may deem persuasive. Commenters are requested to provide specific references to all sources for all studies, data, assumptions, scientific reasoning, and methodology they cite or submit.

Statutory Bases for Exemption

1. Which of the two bases for exemption (field evaluation of a new motor vehicle safety feature (30113(b)(3)(B)(ii)) or field evaluation of a low-emission vehicle (30113(b)(3)(B)(iii)) identified by GM in its petition is more appropriate for the agency to use in analyzing and in granting or denying the petition and why?

2. If the agency determines that its authority to grant exemptions to facilitate the development or field evaluation of a new motor vehicle safety feature is the more appropriate basis under which to evaluate GM's petition, does the petition provide sufficient information to enable the agency to make the required statutory finding as to whether the level of safety is equivalent to or exceeds the level of safety established in the FMVSS from which exemption is sought? If not, what additional information should the agency seek prior to rendering its final determination and why?

3. If the agency determines that its authority to grant exemptions to facilitate the development or field evaluation of a low-emission motor vehicle is the more appropriate basis under which to evaluate GM's petition, does the petition provide sufficient information to enable the agency to determine whether exempting the vehicle would unreasonably degrade the safety of the vehicle? If not, what additional information should the agency seek prior to rendering its final determination and why?

4. In lieu of either of the two bases relied upon by GM, would it be more appropriate to consider GM's petition under 49 U.S.C. 30113(b)(3)(B)(iv) (authority to grant exemptions from FMVSS for vehicles with an overall safety level at least equal to the overall safety level of nonexempt vehicles low-emission vehicles)? If so, why?

Safety Analyses

5. What studies, data, assumptions, scientific reasoning, and methodologies are needed for the agency to evaluate and compare the ZEAV and a FMVSS-compliant non-ADS vehicle? For example, should the agency assess whether an ADS steers, brakes, and accelerates at least as effectively and safely (*e.g.,* as quickly) as the average human driver? If so, what methodology should it use? Are there other approaches to making the safety evaluation and comparison? Please provide specific references to all sources of such tools or evaluation approaches.

6. Given that the ZEAV is expected to evolve over its full-service life, how should the effects of that evolution be taken into consideration in assessing the safety of the exempted vehicle relative to the FMVSS-compliant vehicle?

7. What studies, data, assumptions, scientific reasoning, and methodologies should a petitioner submit to the agency to substantiate its record of research, development, and testing establishing the innovative nature of the safety feature?

8. What studies, data, assumptions, validation test results, scientific reasoning, methodologies, and analyses should a petitioner submit to the agency to validate that its ADS provides safety at least equal to the level of the standards for which an exemption is sought?

9. What studies, data, assumptions, validation test results, scientific reasoning, methodologies, and analyses should a petitioner submit to the agency to validate that its ADS during its operation will have sufficient reliability to accomplish its designed intent, *e.g.,* timely and sufficiently applying the service brakes when braking is needed for safety purposes?

10. The test procedures of some FMVSS listed in the exemption petition involve the use of human drivers and controls (*e.g.,* light vehicle braking). GM indicated that it plans to perform tests with a human driver operating a version of the ZEAV modified to include human controls. Would performance of tests with such a modified vehicle be appropriate, or would programming the

[91] 49 U.S.C. 30163(a).

[92] Petition, page 12.

[93] Greenkraft Inc.; Grant of Application for a Temporary Exemption from FMVSS No. 108, 80 FR 12057, 12060 (March 5, 2015).

ADS of the ZEAV to perform test maneuvers be a better means of evaluating compliance with performance requirements?

11. 49 CFR 555.6(b)(iii) requires the petitioner to submit ''results of tests conducted on the safety or impact protection features that demonstrates performance which meets or exceeds the requirements of the standard'' from which temporary exemption is sought. In the case of a petition submitted for a vehicle that has not yet been produced, and therefore, cannot be tested in order to compare its performance to that of existing vehicles, how should the agency evaluate the safety level of the vehicle? On what preliminary analyses, assumptions, and methodologies should the agency rely to assess whether such performance has been persuasively demonstrated? How would the answers to those questions change if a petitioner could demonstrate that the safety features and systems on the vehicle to be exempted are comparable in performance to those in a non-exempted vehicle and that the addition of the ADS to the vehicle to be exempted did not adversely affect the performance of those safety features and systems?

12. It could be argued that some FMVSS may either not be needed for safety or at least less needed for safety in the case of a vehicle that can be driven by only an ADS. Examples of potentially unnecessary features include inside and outside mirrors as well as the display of images from the rearview camera. Should test results or data be required to justify such an argument? If yes, what would be the most appropriate types of test results or data, and why?

13. GM asserts that a FMVSS that requires telltales to provide drivers with information is not applicable because the ADS would be receiving that information. The agency requests comment on whether and to what extent the telltales might serve a safety purpose for passengers in the vehicle, regardless of whether the information would be transmitted to the ZEAV's ADS and whether the ADS would act on that information in a timely and appropriate way.[94] What weight should the agency give to the extent of the ADS' ability to respond in appropriate ways to the information it receives?

14. For a FMVSS whose benefits depend, in part, on the attentiveness, judgment, and responsiveness of a human driver (*e.g.,* FMVSS No. 135, which requires that a foot control be provided to activate service brakes), how should the agency, in considering a petition for the exemption of a vehicle equipped with ADS and with no human driver controls, evaluate the safety effects of substituting an ADS for a human driver? What types of testing and data, and how much, would the agency need to evaluate those effects?

15. Would it be appropriate to use computer simulation as one of the methods to determine equivalent safety? If yes, why and how? If not, why not? Are there adequately validated simulation models that could be used for this purpose?

16. If the ADS is responsible for decision-making aspects of driving that a human driver otherwise would control, is it appropriate for the agency to evaluate the responsiveness and driving skills of the ADS in relation to the component, system, test procedure, or performance requirement from which an FMVSS exemption is sought? If so, how should the agency evaluate the safety of the ADS in different scenarios, *e.g.,* negotiating a path through oncoming traffic when making a left turn, stopping when a pedestrian crosses the vehicle's path, and yielding to emergency vehicles? What kind of data would be needed for the agency to evaluate the performance of the ADS in these and other scenarios? How should the performance of the ADS be compared to that of a human driver in a nonexempt vehicle?

17. To what extent and how should GM's contemplated limited deployment (*e.g.,* in a petitioner-controlled rideshare program, with established ODD constraints and the ability to pull vehicles off the street to remedy, including through software updates, any potential safety issues that might arise) be considered when evaluating safety equivalence? Does GM's continuous control over the exempted vehicles and the ability to make continual improvements in vehicle safety performance through software updates argue for acceptance of a greater degree of uncertainty about safety effects than in the case of a petition for exemption of vehicles to be sold to the public?

18. If some of the constraints of the ZEAV's initial deployment would eventually be progressively relaxed by GM, what types of data should the agency use in evaluating the safety of the ZEAV over its lifetime and deciding whether to grant or deny the petition? If an exemption is granted, should the agency monitor and periodically validate these data throughout the ZEAV's service life?

19. NHTSA requests comment on how NHTSA should evaluate whether granting this exemption would be consistent with the ''public interest'' and the Vehicle Safety Act. What elements of the public interest and the Act would be most important in that evaluation?

20. In the absence of real-world demonstration of quality of the decision-making by the ZEAV's ADS, if the petition were to be granted, what terms and conditions, if any, should the agency place on the exemption, and any similar future requests, to protect public safety, facilitate agency efforts to monitor the operations of exempted vehicles, and maximize the learning opportunities presented by the on-road experience of the exempted vehicles during the exemption period and thereafter?

21. Should NHTSA consider how the ZEAV would respond if it needed to deal with an unusual situation, *e.g.,* cross the yellow line to pass a stopped vehicle blocking the way forward for a prolonged period of time or obey a policeman giving instructions instead of obeying a traffic light?

Terms and Conditions

22. Please comment on the potential utility of NHTSA's placing terms and conditions on an exemption requiring the submission of the following categories of data:

a. Statistics on use (*e.g.,* for each functional class of roads, the number of miles, speed, hours of operation, climate/weather and related road surface conditions).

b. Statistics and other information on performance (*e.g.,* type, number, and causes, and results of collisions or near misses, disengagements, and transitions to fallback mechanisms, if appropriate). How can the term ''near miss'' best be defined so that there is uniform understanding of the term and consistent practices across all manufacturers in the identifying and reporting of ''near misses''?

c. Metrics that the manufacturer is tracking to identify and respond to progress toward higher levels of safety (*e.g.,* miles without a crash and software updates that increase the ODD).

d. Information related to community, driver and pedestrian awareness, behavior, concerns, and acceptance related to vehicles with an ADS.

e. Metrics or information concerning the durability of the ADS equipment and calibration, and need for maintenance of the ADS. For example, would the ADS work in all identified operating conditions or would there be additional limitations? How would any limitations be addressed and managed?

[94] See the discussion of ''response states'' on pages AII–11 through AII–13 of Appendix II of GM's petition.

f. Data and information on the initial and subsequent ODDs and software updates.

g. For all categories of information, how should any concerns about confidential business information and privacy be addressed?

23. If there would be other categories of data that should be considered, please identify them and the purposes for which they would be useful to the agency in carrying out its responsibilities under the Safety Act.

24. If the agency were to require the reporting of data, for what period should the agency require it to be reported—the two-year exemption period or the ZEAVs' entire normal service life?

25. Given estimates that vehicles with high and full driving automation would generate terabytes of data per vehicle per day, how should the need for data be appropriately balanced with the burden on manufacturers of providing and maintaining it and with the ability of the agency to absorb and use it effectively?

26. If supporting information (including analysis, methodology, data, and computer simulation results involving proprietary systems or specialized computer programs) is submitted by a petitioner under a request for confidential treatment and relied upon by the agency in its determination whether to grant or deny a petition, how can the public be provided with an evaluation and a justification for the determination that are transparent, readily understandable and persuasive?

27. Are there any mechanisms that may help further mitigate the underlying safety risks, if any, presented by this petition? For example, what additional safety and engineering redundancies, if any, should NHTSA consider requiring as a condition to granting the exemption?

28. Over the history of the Agency, exemption petitions based on some form of safety analysis, as opposed to the much more common type of petition based on a claim of economic hardship, have averaged only 1–2 per year. Typically, these safety-based petitions have involved technologies that affect only a single vehicle function or at least a very narrow range of functions and that were well described and tested. Such petitions were resolved by the Agency's either granting or denying them after soliciting and considering public comments. In some cases, the Agency sent requests to the applicant for additional test data. In most cases, this second group of petitions were either granted or denied, again after public comment. In a few instances, the petition remained as ''pending.''

In our current innovative environment, such an approach presents challenges for technologies, *e.g.,* automated driving systems for vehicles without manual driving controls, that affect a broad range of functions and that have not been developed sufficiently to incorporate them in vehicles in order to generate the real-world test data that has typically been required for granting petitions. The lack of real-world test data could result in lengthy delays and even non-approval.

To address this problem, NHTSA solicits public comment on alternative approaches to analyzing and resolving petitions for exemption from FMVSS in a timely and appropriate way, including but not limited to:

—After public comment, exercising our discretion to rely upon other forms of evidence in making the statutorily required findings quickly for petitions related to technology with significant lifesaving potential to allow for expedited approval for testing and development of a very limited number of vehicles [95] under well-defined, risk-managed conditions;

—Deny petitions if applicants are unable to respond adequately to NHTSA requests for further information within a specified time period;

—For vehicles that would be deployed only within very limited operating areas, go beyond seeking public comment by hosting public meetings or otherwise providing for targeted and transparent public engagement in the intended geographical operating area to allow for full and transparent public discussion of novel safety issues and concerns, emergency response considerations, or other issues of interest to state and local stakeholders regarding the exemption requested and relevant to NHTSA's review of the petition;

—Any other options to process petitions in a way that is timely, transparent and supportive of the safety goals of the FMVSS from which exemption is sought.

VII. Comment Period

Because of the novelty and complexity of the petition, the agency is providing a 60-day comment period. After considering public comments and other available information, NHTSA will publish a notice of final action on the petition in the **Federal Register**.

[95] *E.g.,* a number significantly less than the 2,500 vehicles per year authorized by 49 U.S.C. 30113.

Please note that even after the comment closing date, we will continue to file relevant information in the docket as it becomes available. Further, some people may submit late comments. Accordingly, we recommend that you periodically check the Docket for new material. You can arrange with the docket to be notified when others file comments in the docket. See *www.regulations.gov* for more information. We will reopen or extend the comment period for this petition, as needed.

Authority: 49 U.S.C. 30113 and 49 U.S.C. 30166; delegations of authority at 49 CFR 1.95 and 49 CFR 501.8.

Issued in Washington, DC under authority delegated pursuant to 49 CFR 1.95 and 49 CFR 501.8.

Heidi R. King,

Deputy Administrator.

[FR Doc. 2019–05119 Filed 3–18–19; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[Docket No. DOT–OST–2018–0190]

Aviation Consumer Protection Advisory Committee Matters; Subcommittee on In-Flight Sexual Misconduct

AGENCY: Office of the Secretary (''OST''), Department of Transportation (''DOT'').

ACTION: Notice of rescheduled first meeting of the Aviation Consumer Protection Advisory Committee.

SUMMARY: The U.S. Department of Transportation has rescheduled the previously announced January 16, 2019, meeting of the Aviation Consumer Protection Advisory Committee (''ACPAC'' or ''Committee''). The new date for the first meeting of the reestablished ACPAC is April 4, 2019. The meeting will be held in the Media Center (located on the lobby level of the West Building) at the U.S. Department of Transportation Headquarters, 1200 New Jersey Ave. SE, Washington, DC 20590. Three topics will be discussed at that meeting—establishment of the National In-Flight Sexual Misconduct Task Force (''Task Force'') (including the tasks to be carried out by the Task Force); transparency of airline ancillary service fees; and involuntary changes to travel itineraries.

DATES: The first meeting of the reestablished ACPAC will be held on April 4, 2019, from 9:00 a.m. to 5:00 p.m. Eastern Time.

FOR FURTHER INFORMATION CONTACT: To register to attend the meeting, please contact Zeenat Iqbal, Senior Attorney, Office of Aviation Enforcement and Proceedings, by email at *zeenat.iqbal@dot.gov,* or by telephone at 202–366–9893. Attendance is open to the public up to the room's capacity of 100 attendees. Since space is limited and access to the DOT headquarters building is controlled for security purposes, any member of the public who plans to attend this meeting must notify the registration contact identified no later than Wednesday, March 27, 2019.

SUPPLEMENTARY INFORMATION:

Background

On November 23, 2018, the Department issued a **Federal Register** notice indicating that the Department had reconstituted the Aviation Consumer Protection Advisory Committee, formerly known as the Advisory Committee on Aviation Consumer Protection, as a federal advisory committee. The FAA Reauthorization Act of 2018 (''2018 FAA Act''), signed by President Trump on October 5, 2018, extended the authorization for the ACPAC from September 30, 2018, to September 30, 2023. The Department has appointed new members to the ACPAC, and established the Task Force as an ACPAC subcommittee. The Department had also announced that the first meeting of the reestablished ACPAC would take place on January 16, 2019. *See* 83 FR 59447. Due to a lapse in funding for the Department, that meeting was canceled.

The rescheduled first meeting of the reestablished ACPAC will be held on April 4, 2019, from 9:00 a.m. to 5:00 p.m. Eastern Time. Additionally, DOT will stream the event live on the internet and provide a link to the recorded webcast for future viewing at *https://www.transportation.gov/airconsumer/ACPAC.*

During the first meeting, there will be a discussion of three topics: (1) The duties of the Task Force members; (2) the transparency of airline ancillary service fees; and (3) and involuntary changes to itineraries. The Joint Explanatory Statement of the 2018 Consolidated Appropriations Act requests that the Department work in collaboration with industry, consumers and other stakeholders to establish guidelines on transparency of airline ancillary fees. In addition, the 2018 FAA Act mandates that the Department review and make recommendations with regard to air carriers' handling of involuntary changes to passengers' travel itineraries, and that the Department may consult with the Committee for this purpose. Accordingly, the Committee will discuss these issues during the meeting.

Members of the public may present written comments at any time. The docket number referenced above (DOT–OST–2018–0190) has been established for committee documents including any written comments that may be filed. At the discretion of the Chairperson and time permitting, after completion of the planned agenda, individual members of the public may provide oral comments. Any oral comments presented must be limited to the objectives of the committee and will be limited to five (5) minutes per person. Individual members of the public who wish to present oral comments must notify the Department of Transportation contact noted above via email that they wish to attend and present oral comments no later than Wednesday, March 27, 2019.

Persons with a disability who plan to attend the meeting and require special accommodations, such as an interpreter for the hearing impaired, should notify the registration contact noted above no later than Wednesday, March 27, 2019.

Viewing Documents

You may view any documents mentioned in this notice as being available in the docket at *https://www.regulations.gov.* After entering the docket number (DOT–OST–2018–0190), click the link to ''Open Docket Folder'' and choose the document to review. If you do not have access to the internet, you may view the docket online by visiting the Docket Management Facility in Room W12–140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., E.T., Monday through Friday, except Federal holidays.

Issued in Washington, DC, on March 12, 2019.

Steven G. Bradbury,

General Counsel.

[FR Doc. 2019–04991 Filed 3–18–19; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Extension of Information Collection Request Submitted for Public Comment; Comment Request for Definitions of Contributions for Aid of Construction Under Section 118(c)

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Internal Revenue Service, as part of its continuing effort to reduce paperwork and respondent burden, invites the public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. Currently, the IRS is soliciting comments concerning definitions of contributions for aid of Construction Under Section 118(c).

DATES: Written comments should be received on or May 20, 2019 to be assured of consideration.

ADDRESSES: Direct all written comments to Laurie Brimmer, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW, Washington, DC 20224. Requests for additional information or copies of the regulations should be directed to R. Joseph Durbala, at Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW, Washington DC 20224, or through the internet, at *RJoseph.Durbala@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Aid of Construction Under Section 118(c).

OMB Number: 1545–1639.

Regulation Project Number: TD 8936.

Abstract: This regulation provides guidance with respect to section 118(c), which provides that a contribution in aid of construction received by a regulated public water or sewage utility is treated as a contribution to the capital of the utility and excluded from gross income.

Current Actions: There is no change to the burden previously approved by OMB.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 300.

Estimated Time per Respondent: 1 hour.

Estimated Total Annual Burden Hours: 300.

The following paragraph applies to all the collections of information covered by this notice:

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 OMB control number.

Books or records relating to a collection of information must be retained if their contents may become material in the administration of any internal revenue law. Generally, tax

returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Desired Focus of Comments: The Internal Revenue Service (IRS) 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 using appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* by permitting electronic submissions of responses.

Comments submitted in response to this notice will be summarized and/or included in the ICR for OMB approval of the extension of the information collection; they will also become a matter of public record.

Approved: March 12, 2019.

R. Joseph Durbala,

IRS Tax Analyst.

[FR Doc. 2019–05069 Filed 3–18–19; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Extension of Information Collection Request Submitted for Public Comment; Comment Request for Form 1045

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Internal Revenue Service, as part of its continuing effort to reduce paperwork and respondent burden, invites the public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. Currently, the IRS is soliciting comments concerning Form 1045, Application for Tentative Refund.

DATES: Written comments should be received on or before May 20, 2019 to be assured of consideration.

ADDRESSES: Direct all written comments to Laurie Brimmer, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW, Washington, DC 20224. Requests for additional information or copies of the regulations should be directed to R. Joseph Durbala, at Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW, Washington, DC 20224, or through the internet, at *RJoseph.Durbala@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Application of tentative refund.

OMB Number: 1545–0098.

Form Number: 1045.

Abstract: Form 1045 is used by individuals, estates, and trusts to apply for a quick refund of taxes due to carryback of a net operating loss, unused general business credit, or claim of right adjustment under Internal Revenue Code section 1341(b). The information obtained is used to determine the validity of the application.

Current Actions: There is no change to the burden previously approved by OMB.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households, business or other for-profit organizations, and farms.

Estimated Number of Respondents: 17,503.

Estimated Time per Respondent: 30 hours 31 min.

Estimated Total Annual Burden Hours: 534,192.

The following paragraph applies to all the collections of information covered by this notice:

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 OMB control number.

Books or records relating to a collection of information must be retained if their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Desired Focus of Comments: The Internal Revenue Service (IRS) 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 using appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* by permitting electronic submissions of responses.

Comments submitted in response to this notice will be summarized and/or included in the ICR for OMB approval of the extension of the information collection; they will also become a matter of public record.

Approved: March 12, 2019.

R. Joseph Durbala,

IRS Tax Analyst.

[FR Doc. 2019–05068 Filed 3–18–19; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Extension of Information Collection Request Submitted for Public Comment; Comment Request for Form 8874, New Markets Credit

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Internal Revenue Service, as part of its continuing effort to reduce paperwork and respondent burden, invites the public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. Currently, the IRS is soliciting comments concerning Form 8874, New Markets Credit.

DATES: Written comments should be received on or before May 20, 2019 to be assured of consideration.

ADDRESSES: Direct all written comments to Laurie Brimmer, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW, Washington, DC 20224. Requests for additional information or copies of the regulations should be directed to R. Joseph Durbala, at Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW, Washington, DC 20224, or through the internet, at *RJoseph.Durbala@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: New Market Tax Credits.

OMB Number: 1545–1804.

Regulation Project Number: 8874.

Abstract: Investors to claim a credit for equity investments made in Qualified Community Development Entities use Form 8874.

Current Actions: There is no change to the burden previously approved by OMB.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households, and business or other for-profit organizations.

Estimated Number of Respondents: 101.

Estimated Time per Respondent: 4 hours 52 minutes.

Estimated Total Annual Burden Hours: 492.

The following paragraph applies to all the collections of information covered by this notice:

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 OMB control number.

Books or records relating to a collection of information must be retained if their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Desired Focus of Comments: The Internal Revenue Service (IRS) 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 using appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* by permitting electronic submissions of responses.

Comments submitted in response to this notice will be summarized and/or included in the ICR for OMB approval of the extension of the information collection; they will also become a matter of public record.

Approved: March 12, 2019.

R. Joseph Durbala,

IRS Tax Analyst.

[FR Doc. 2019–05070 Filed 3–18–19; 8:45 am]

BILLING CODE 4830–01–P

FEDERAL REGISTER

Vol. 84 Tuesday,

No. 53 March 19, 2019

Part II

Defense Nuclear Facilities Safety Board

Recommendation 2019–01; Notice

DEFENSE NUCLEAR FACILITIES SAFETY BOARD

Recommendation 2019–01

AGENCY: Defense Nuclear Facilities Safety Board.

ACTION: Notice; Recommendation.

SUMMARY: The Defense Nuclear Facilities Safety Board has made a Recommendation to the Secretary of Energy concerning implementation of Nuclear Safety Management requirements and the need to address specific hazards at the National Nuclear Security Administration's Pantex Plant. Pursuant to the requirements of the Atomic Energy Act of 1954, as amended, the Defense Nuclear Facilities Safety Board is publishing the Recommendation and associated correspondence with the Department of Energy and requesting comments from interested members of the public.

DATES: Comments, data, views, or arguments concerning the recommendation are due on or by April 18, 2019.

ADDRESSES: Send comments concerning this notice to: Defense Nuclear Facilities Safety Board, 625 Indiana Avenue NW, Suite 700, Washington, DC 20004–2001. Comments may also be submitted by e-mail to *comment@dnfsb.gov.*

FOR FURTHER INFORMATION CONTACT: Glenn Sklar at the address above or telephone number (202) 694–7000. To review the figures referred to in Recommendation 2019–01, please visit *http://www.dnfsb.gov.*

SUPPLEMENTARY INFORMATION:

Recommendation 2019–1 to the Secretary of Energy

Uncontrolled Hazard Scenarios and 10 CFR 830 Implementation at the Pantex Plant

Pursuant to 42 U.S.C. 2286a(b)(5)

Atomic Energy Act of 1954, as Amended

Dated: February 20, 2019.

Introduction. The Defense Nuclear Facilities Safety Board (Board) has evaluated the adequacy of safety controls for nuclear explosive operations at the Pantex Plant and the processes that ensure those operations have a robust safety basis. Based on this evaluation, we conclude the following:

- Portions of the safety basis for nuclear explosive operations at Pantex do not meet Title 10, Code of Federal Regulations, Part 830, Nuclear Safety Management (10 CFR 830). There are high consequence hazards that (1) are not adequately controlled; (2) may have controls, but lack documentation linking the controls to the hazards; or (3) have controls that are not sufficiently robust or that lack sufficient pedigree to reliably prevent or mitigate the event.
- Multiple components of the process for maintaining and verifying implementation of the safety basis at Pantex are deficient, including (1) completion of annual updates as required by 10 CFR 830, (2) processes for handling Unreviewed Safety Questions (USQ) and Justifications for Continued Operations (JCO), and (3) processes for performing Implementation Verification Reviews of credited safety controls.
- To date, the National Nuclear Security Administration (NNSA) Production Office (NPO) and the Pantex contractor have been unable to resolve known safety basis deficiencies. The Board initially identified similar issues and communicated them to NNSA in a letter dated July 6, 2010. Specifically, the letter found that the use of combined probabilities *(i.e.,* initiating event probability multiplied by the weapon response) to determine scenario credibility and the treatment of falling technician scenarios were inappropriate. NNSA and the Pantex contractor have made little progress resolving these deficiencies despite the development of multiple corrective action plans.

Analysis. The enclosed Findings, Supporting Data, and Analysis document provides reports that support the Board's conclusions in this Recommendation.

The first report concludes there are deficiencies in the safety basis and control strategy for B61, W76, W78, W87, and W88 operations, which are designed to prevent or mitigate high consequence hazards. Pantex dispositioned a subset of the issues in the report via the USQ process in January 2018. Subsequently, the Pantex contractor submitted a JCO [1] to NPO in June 2018 to continue operations on weapon programs with known legacy safety basis deficiencies. The Pantex contractor subsequently withdrew the JCO and instead submitted a safety basis supplement (SBS) [2] that NPO approved in September 2018. The SBS had content similar to the previously submitted JCO, but identified certain compensatory measures to be treated as specific administrative controls for falling technician scenarios (*e.g.,* safety requirements identifying appropriate approach paths to the unit and removing tripping hazards at the beginning of work shifts). However, neither the JCO nor the SBS is based on a comprehensive analysis of the approved safety basis documents to identify areas requiring further enhancement and in need of additional controls. The SBS provides the Pantex contractor relief for safety basis deficiencies in advance of comprehensive evaluations to determine the extent of these issues. In addition, neither the JCO nor the SBS address the suite of hazard scenarios that the enclosed supporting technical analysis identified as deficient. The Pantex contractor has developed a corrective action plan [3] to address safety basis quality issues. This corrective action plan includes efforts to review the safety analysis documents for hazard scenarios with no controls and high order consequences caused by production technician trips.

The second report describes the results of a safety investigation (preliminary safety inquiry) regarding the implementation of 10 CFR 830 at Pantex. It identifies examples of lack of compliance that support all the above conclusions. For example, contrary to 10 CFR 830.202(c), the Pantex contractor has failed to update annually the hazard and safety analysis reports. In addition, contrary to 10 CFR 830.203(g), the Pantex USQ procedures allow three days to correct discrepant-as-found conditions—or safety basis implementation and execution errors—without stopping operations, notifying the Department of Energy (DOE), or initiating the Pantex process for addressing a potential inadequacy of the safety analysis.

The third report describes deficiencies identified within the special tooling program at Pantex and was sent to the Secretary of Energy from the Board on October 17, 2018.

Based on this analysis, the Board finds that deficiencies exist within the processes used to ensure operations at Pantex have a robust safety control strategy—the safety basis is inadequate and credible accident scenarios with high consequences exist with insufficient or no controls. Hazard scenarios of concern include those with high explosive violent reaction and/or inadvertent nuclear detonation consequences, which significantly exceed the DOE Evaluation Guideline

[1] Consolidated Nuclear Security, LLC, *Justification for Continued Operations for Legacy Issues Associated with Documented Safety Analyses at Pantex,* June 29, 2018.

[2] Consolidated Nuclear Security, LLC, *Safety Basis Supplement for Legacy Issues Associated with Documented Safety Analyses at Pantex,* September 18, 2018.

[3] Consolidated Nuclear Security, LLC, *Corrective Action Plan for DSA Quality Issues,* September 27, 2018.

dose consequence of 25 rem total effective dose to the maximally exposed offsite individual. As a result, the Board finds that DOE and NNSA need to take actions to ensure that adequate protection from hazards associated with nuclear operations at Pantex is sustained.

Recommendations. The Board recommends that DOE and NNSA take the following actions at Pantex:

1. Implement compensatory measures to address all the deficiencies described in Appendix 1 and Appendix 2.
2. Perform an extent-of-condition evaluation of the Pantex safety basis (including the procedures for development and configuration control of the safety basis documents) and implement subsequent corrective actions to ensure compliance with DOE regulations and directives.
3. Implement actions to ensure process design and engineering controls (including the use of special tooling) eliminate or protect a unit from impact and falling technician scenarios, including those scenarios identified in Enclosure 1.
4. Ensure the design, procurement, manufacturing, and maintenance of special tooling is commensurate with its safety function (see Enclosure 1).
5. Train safety basis personnel to ensure future revisions to the safety basis comply with 10 CFR 830 requirements.

Bruce Hamilton, Chairman

Risk Assessment for Recommendation 2019–1

Uncontrolled Hazard Scenarios and 10 CFR 830 Implementation at the Pantex Plant

Recommendation 2019–1 addresses uncontrolled hazard scenarios and Title 10, Code of Federal Regulations, Part 830, Nuclear Safety Management (10 CFR 830), implementation at the Pantex Plant. In accordance with the Defense Nuclear Facilities Safety Board's (Board) enabling statute and Policy Statement 5, Policy Statement on Assessing Risk, this risk assessment considers initiating event frequencies, adequacy of preventive and/or mitigative controls, and consequences from the hazards.

As detailed in the Recommendation and supporting technical analysis, deficiencies exist within processes used to ensure operations at Pantex have a robust safety basis. Furthermore, accident scenarios exist at Pantex with inadequate control strategies, including scenarios without any preventive or mitigative controls. As specified within the Pantex safety analysis and hazard analysis reports, these scenarios of concern—including those without any applied controls—have high explosive violent reaction and/or inadvertent nuclear detonation consequences. These consequences have the potential for significant special nuclear material aerosolized dispersal and therefore significantly exceed the Department of Energy (DOE) Evaluation Guideline dose consequence of 25 rem total effective dose to the maximally exposed offsite individual.

For the identified inadequately controlled scenarios, the initiating events primarily involve operational incidents, such as impacts, drops, gouges, and personnel trips. Following nomenclature outlined in DOE Standard 3009–1994, Change Notice 3, Preparation Guide for U.S. Department of Energy Nonreactor Nuclear Facility Documented Safety Analyses, initiating event frequencies for the scenarios include Anticipated (probability between 10^{-1} and 10^{-2}) and Unlikely (probability between 10^{-2} and 10^{-4}) events. Coupled with the significant consequences to the public, DOE Standard 3009 ranks the risk associated with these events as Unacceptable. Furthermore, in accordance with DOE Standard 3016–2016, Hazard Analysis Reports for Nuclear Explosive Operations, the design agencies provided unscreened (*i.e.,* conditional probability of greater than 10^{-9} per insult) weapon responses for these scenarios. Based on the weapon response, there is sufficient probability that the consequence could occur given the postulated insult and therefore controls are required to prevent the accident. In accordance with DOE Standard 3009 and Standard 3016—safe harbors for compliance with 10 CFR 830—safety class controls are required to provide adequate protection.

Using the deterministic process outlined in DOE Standard 3009 demonstrates that Pantex needs safety class controls to maintain adequate protection. A quantitative risk assessment is not practicable because the data does not exist. However, there is a qualitative risk as scenarios currently exist without any applied controls, or with insufficient control strategies. As a result, the Board finds that DOE and NNSA need to take actions to ensure that adequate protection from hazards associated with nuclear operations at Pantex is sustained.

Findings, Supporting Data, and Analysis

Appendix 1

Nuclear Explosive Operations With Uncontrolled Hazards at the Pantex Plant [4]

Members of the Defense Nuclear Facilities Safety Board's (Board) staff reviewed the hazard analysis reports (HAR) for B61, W76, W78, W87, and W88 nuclear explosive operations at the Pantex Plant (Pantex). The staff team held multiple interactions between November 2017 and March 2018 with personnel from the National Nuclear Security Administration (NNSA) Production Office (NPO) and the Pantex contractor, Consolidated Nuclear Security, LLC (CNS), responsible for development and maintenance of the Pantex documented safety analysis (DSA) [5] to discuss specific scenarios identified in the safety basis documents.

The Board's staff team identified credible hazard scenarios that lack documented evidence that Pantex has identified and implemented credited safety controls to prevent high order consequences, *i.e.,* inadvertent nuclear detonation (IND) and/or high explosive violent reaction (HEVR). High order consequences have the potential to significantly exceed the Evaluation Guideline to the maximally exposed offsite individual. Through evaluation of the Pantex safety basis, the staff team identified additional deficiencies related to (1) the design and classification of administrative controls relied upon for specific risk reduction, (2) the processing of new information through the approved unreviewed safety question (USQ) process, and (3) quality issues in the safety basis documentation.

Following the multiple interactions conducted during this review, the staff team concluded that CNS and NPO have not demonstrated how the current suite of credited controls—*i.e.,* safety class and safety significant structures, systems, and components (SSC); specific administrative controls (SAC);

[4] This report updated on July 27, 2018, to incorporate issuance of the Justification for Continued Operations (JCO), *Justification for Continued Operations for Legacy Issues Associated with Documented Safety Analyses at Pantex,* dated June 29, 2018. Report does not reflect issuance of the subsequent Safety Basis Supplement, *Safety Basis Supplement for Legacy Issues Associated with Documented Safety Analyses at Pantex,* dated September 18, 2018.

[5] DSA refers to the full framework of safety analysis documents comprising the safety basis for conducting nuclear operations at Pantex. This includes HARs, safety analysis reports (SAR), the technical safety requirements (TSR) document, JCOs, and Evaluations of the Safety of the Situation.

and safety management programs—effectively prevent the identified hazard scenarios from resulting in high order consequences.

Background. In July 2010, the Board transmitted a letter to the NNSA Administrator communicating issues with HARs for several nuclear explosive operations at Pantex [1]. The issues included concerns that the Pantex contractor [6] inappropriately used initiating event probabilities to exclude credible hazards from further consideration. In some instances, this resulted in hazard scenarios where the responsible design agency provided a credible weapon response but the Pantex contractor did not identify or implement controls to address these hazards. In its 2010 letter, the Board concluded that this practice was inconsistent with the safety basis safe harbor methodologies in use at the time, *i.e.,* DOE–NA–STD–3016–2006, Hazard Analysis Reports for Nuclear Explosive Operations [2], and DOE–STD–3009–1994, Change Notice 3, Preparation Guide for U.S. Department of Energy Nonreactor Nuclear Facility Documented Safety Analyses [3].

NNSA [7] and the former Pantex contractor, Babcock & Wilcox Technical Services Pantex, LLC (B&W), developed a DSA Upgrade Initiative (DSAUGI), in part, to address the concerns communicated in the Board's 2010 letter. DSAUGI included goals to (1) develop accident analyses for all hazardous events that do not have screened responses for IND and HEVR, and (2) update the safety management programs to ensure that the key provisions of the programs, as they relate to operational and facility safety, are adequately described and translated into TSRs [4]. As indicated in initial revisions of the upgrade initiative, B&W and NNSA intended DSAUGI to be a multi-year effort, [8] with detailed schedules of deliverables maintained to ensure that its goals were accomplished in a timely and complete manner. Completion of DSAUGI, as it was initially described, would have entailed significant revisions to the W76, W78, W87, and W88 HARs to address deficient legacy conditions such as those identified in the 2010 Board letter [4].

In 2013, B&W developed the DSA Improvement Plan (DSAIP) to ''improve the Pantex DSA to achieve consistency and simplification, and to address legacy issues'' [5]. DSAIP superseded DSAUGI. DSAIP had a stated goal to ''achieve continuous improvement through incremental change,'' as realized by incorporation of its core principles in DSA change package development and during the DSA annual update process [5]. The original revision of DSAIP specified 15 core principles, including the following principles relevant to the issues presented in this report:

- Core Principle 4—''Evaluate important to safety controls for either elimination or for elevation to a [credited safety-related] control'' [5].
- Core Principle 10—''Evaluate key elements for either elimination or for re-categorization as a [credited safety-related] control'' [5].
- Core Principle 11—''Ensure Specific Administrative Controls (SACs) are appropriately classified per DOE–STD–1186'' [5].

Additionally, DSAIP stipulated specific initiatives necessary to address legacy issues in the safety basis and to accomplish the plan's goals. These initiatives, developed in part to address the issues identified by the Board, included an effort to resolve ''screening of high consequence/low probability events (in both Hazard and Accident Analyses)'' [5]. The original issue of DSAIP included a notional schedule to complete this effort through proposed safety basis change packages, scheduled for submittal to NPO in February 2014 [5].

B&W and CNS updated DSAIP annually from 2014 to 2017. The 2015 and 2016 DSAIP revisions listed the status of ''Resolving High Consequence/Low Probability Events in the Accident Analysis'' as ''Ongoing,'' and no longer provided an explicit path to closure [6, 7].

The 2017 revision of DSAIP represented a significant change to the plan—CNS retained the core principles and higher-level objectives, but no longer provided the status of the specific initiatives, including the initiative related to resolving high consequence, low probability events [8]. Based on feedback and concerns from NPO related to the quality of DSA change package submittals, CNS plans to revise DSAIP in 2018 ''to identify 'Core Principle' efforts as discrete projects'' [9].

In November 2017, the staff team performed a focused review of the W88 HAR to determine if actions NNSA and CNS had taken, including those accomplished through DSAUGI and DSAIP, effectively addressed the concerns presented in the 2010 Board letter. Based on the issues the staff team identified in the W88 HAR, the team expanded the review scope to include additional HARs. The issues and conclusions described in this report stem from that focused review and the staff team's additional follow-on activities.

The remainder of this report will explore four types of deficiencies the staff team identified: (1) Credible hazard scenarios that lack documented evidence that Pantex has identified and implemented credited safety controls to prevent high order consequences, (2) the design and classification of administrative controls relied upon for specific risk reduction, (3) the processing of new information through CNS's approved USQ process, and (4) quality issues in the safety basis documentation.

Identification of Credited Safety Controls for Credible Hazards. The Board's staff team reviewed the hazard disposition tables and related hazard and accident analyses located in the approved HARs for B61, W76, W78, W87, and W88 operations to identify the controls relied upon to prevent hazard scenarios from resulting in high order consequences. While the safety bases identify adequate controls for the vast majority of credible hazard scenarios, the Board's staff team identified credible hazard scenarios with unscreened weapon responses for IND and HEVR for which the safety bases either do not define credited safety controls or for which the credited safety controls are not sufficient. Of note, the staff team's review of applicable safety basis documents was thorough but not exhaustive—additional problematic scenarios may exist.

DOE Expectations for the Identification of Credited Safety Controls—Title 10, Code of Federal Regulations, Part 830, Nuclear Safety Management (10 CFR 830), requires that the contractor responsible for DOE nonreactor nuclear facilities establish and maintain the safety basis for the facility. In doing so, the DSA for the facility must ''[d]erive the hazard controls necessary to ensure adequate protection of workers, the public, and the environment, demonstrate the adequacy of these controls to eliminate, limit, or mitigate identified hazards, and define the process for maintaining the hazard controls current at all times and controlling their use'' [10]. The Pantex DSA is intended to implement the safety

[6] At the time of the 2010 Board letter, Babcock & Wilcox Technical Services Pantex, LLC, was the management and operating (M&O) contractor. Following a contract transition in July 2014, CNS became the M&O contractor.

[7] At the time of the 2010 Board letter, the local NNSA office was referred to as the Pantex Site Office (PXSO). In 2012, PXSO merged functions with the Y–12 Site Office to form NPO.

[8] The original plan, issued in 2011, was to complete DSAUGI by the end of fiscal year 2015.

basis requirements specified in 10 CFR 830 through adherence to the following two safe-harbor methodologies: DOE–NA–STD–3016 for nuclear explosive operations and DOE–STD–3009 for the facilities in which nuclear explosive and nuclear material operations are performed. The guidance and requirements specified in these documents describe DOE's expectations for identification of necessary hazard controls.

Per DOE–NA–STD–3016–2016, ''[h]azard scenarios that are not screened for IND or HEVR consequences . . . are designated as Design Basis Accidents (DBAs), and are retained for consideration in the accident analysis section per DOE–STD–3009 . . . . With the exception of [natural phenomena hazards], initiating event probability information must not be used to dismiss the need to apply controls for plausible accident scenarios resulting in IND or HEVR'' [11]. In this context, ''screened'' is defined as ''[t]he weapon response likelihood provided for given hazards and associated nuclear weapon configuration combinations that the responsible DA(s) [design agency] asserts will not result in a specific weapon response consequence. The assignment of an IND or HEVR numerical likelihood [weapon response] will be treated as screened if the likelihood were $\leq 10^{-9}$'' [11].

The 2016 revision of DOE–NA–STD–3016 was accepted into the Pantex M&O contract in 2016, but has not yet been fully implemented. The previous revision to this standard, DOE–NA–STD–3016–2006, does not include a numerical screening threshold, and simply describes screened weapon responses as ''[h]azards and associated weapon configuration combinations that cannot result in a weapon response'' [2]. The HAR development approach specified in DOE–NA–STD–3016 is built around an assumption and acknowledgement that consequences from HEVR and IND accidents will challenge the Evaluation Guideline in the absence of any rigorous analysis. With this in mind, DOE–NA–STD–3016–2016 specifies that ''[t]he approach to the identification and classification of controls in the hazard analysis is the same as the process described in DOE–STD–3009'' [11].

The Pantex M&O contract applies the requirements of DOE–STD–3009–1994, Change Notice 3, to existing facilities. This standard specifies that ''[i]n order to comply with 10 CFR 830, specific safety controls are to be developed in the DSA'' [3]. It clarifies this expectation by stating that 10 CFR 830 ''defines safety class designation for SSCs that are established on the basis of application of the Evaluation Guidelines. This designation carries with it the most stringent requirements (*e.g.,* enhanced inspection, testing and maintenance, and special instrumentation and control systems)'' [3]. When applied in the context of nuclear explosive operations, the standard stipulates that compliance with 10 CFR 830 requires application of safety class controls to prevent or mitigate unscreened hazards with HEVR or IND consequences.

W88 Hazards with Insufficient Safety Controls—In November 2017, the Board's staff team provided NPO and CNS with an initial list of hazard scenarios from the DSA with weapon responses that were unscreened for IND and HEVR consequences, and where safety class controls were not clearly applied. Each of these scenarios potentially is encountered during W88 operations in nuclear explosive cells. The scenarios included postulated hazards related to mechanical impacts caused by falling technicians; mechanical impacts due to dropped tooling and components; and scrapes, pinches, and gouges of critical weapon components. The Addendum to this report identifies the specific scenarios in greater detail.

Each identified hazard scenario applies a weapon response rule where the likelihood of high order consequences is listed as ''sufficiently unlikely.'' This frequency bin generally corresponds to conditional response likelihoods of 10^{-7} or 10^{-8} depending on the weapon program and consequence, given a particular stimulus or insult. In the framework of weapon response and HAR development, sufficiently unlikely is not equivalent to ''screened.'' While the likelihood of high order consequences for any of these scenarios is extremely low, credited safety controls are still necessary.

Mitigative controls such as the specialized nuclear explosive cell structure may be credited to reduce the consequences from HEVR accidents, but such controls are not effective for IND scenarios. Control sets for scenarios with a credible risk of IND must be preventive in nature. Additionally, while the nuclear explosive cell structure could be credited as a mitigative control to provide protection from HEVR consequences, this control would not prevent high order consequences in the immediate vicinity of the accident, requiring the consideration of additional preventive controls. Control sets for scenarios that occur in nuclear explosive bays with a credible risk of HEVR or IND must also be preventive in nature because the bay structure does not mitigate the consequence of such events.

During an initial interaction with CNS safety analysis engineering (SAE) and NPO nuclear safety and engineering personnel in November 2017, CNS presented its initial analysis of the identified scenarios to the Board's staff review team. This initial analysis noted that, while not currently and explicitly documented in the safety basis, the cell structure is an in-place, safety class control that CNS could apply to mitigate the consequences from HEVR accidents in the identified scenarios.

In addition, CNS noted that currently it had addressed other scenarios by compensatory measures implemented via a JCO approved by NPO in May 2017 [12]. However, CNS acknowledged that the remaining scenarios did not have readily apparent controls. During subsequent discussions with the Board's staff team, CNS personnel also indicated that they had identified the potential for similarly treated hazard scenarios on the W76 program. Based on these initial concerns, the staff team decided to expand the scope of its review to include other HARs that CNS had not updated recently. This included the B61, W76, W78, and W87 programs.

Treatment of New Information for W88 Hazard Scenarios—The approved CNS procedure for USQ determinations defines a process whereby CNS captures new information and evaluates whether it represents a potential inadequacy of the safety analysis (PISA).[9] At Pantex, this is termed the problem identification and evaluation (PIE) process. Soon after the initial meeting where the Board's staff team presented the W88 hazard scenarios of concern, CNS SAE personnel captured the identified scenarios as new information and initiated the PIE process. Although CNS personnel indicated to the staff review team that other programs might contain additional similar scenarios, it did not formally evaluate other weapon programs via the PIE process.

After approximately one month of evaluation, CNS determined that the identified new information did not represent a PISA. Specifically, in response to the question ''Does the situation indicate an unanalyzed hazard exists or a potential new credited control is needed?'', the PIE process disposition form states that ''[a]lthough there are hazards that identify no controls are selected, these hazards have

[9] CNS has submitted, and NPO has approved, separate USQ procedures at Pantex and Y–12; there may be inconsistencies with 10 CFR 830 that occur at both sites. CNS plans to consolidate the USQ processes across both sites.

been dispositioned'' [13] with one or more specified disposition pathways. The specified pathways are as follows: (1) Controls are identified, (2) scenario is covered in the May 2017 JCO, (3) scenario is not credible, (4) scenario identifies ''Facility Structure'' as a mitigating design feature, and (5) scenario identifies ''Procedures and Training'' as a safety management program key element.

The Board's staff team independently evaluated CNS's disposition of the identified hazard scenarios. The staff team agrees that the scenarios dispositioned through the first two pathways, *i.e.,* controls are identified in the HAR or in the May 2017 JCO, are adequately controlled. Per the CNS evaluation, these pathways apply to only seven of the twenty-five identified hazard scenarios.[10] The staff team concluded that the three remaining disposition pathways—which CNS applied for 18 hazard scenarios—are either not technically justified or insufficient with regards to established expectations for control reliability and efficacy.

CNS concluded through its PIE evaluation that a specific gouge scenario, in a configuration with bare high explosives, is not credible. The conclusion that this specific scenario is not credible contradicts the Hazard Analysis Summary Table in the approved HAR, which concludes that the hazard is credible. The staff team further evaluated the scenario by reviewing the associated operating procedures and could not identify any controls that would preclude the event. With the current information provided by CNS, the staff team is unable to independently reach the same conclusion as the Pantex contractor. The staff review team further notes that CNS would need to request approval from NPO to reverse a conclusion presented in the approved safety basis.

CNS concluded that the remaining 17 scenarios were controlled through the use of the facility structure or through key elements of safety management programs. However, as discussed above, the facility structure is incapable of mitigating the consequences of IND scenarios or preventing high order consequences in the immediate vicinity of the accident, requiring consideration of additional preventive controls.

For the remaining scenarios that have credible IND consequences, the only preventive features are key elements of safety management programs, such as ''procedures and training'' or the ''falling man awareness protocol.'' In some instances, these key elements are ill-defined and are not developed for the specific context for which they are currently relied upon. In the case of the W88, the ''procedures and training'' key element is not carried into the TSR document for application at the floor level; attributes of the key element are not defined to allow operators, supervisors, or oversight personnel to verify their implementation; and the key elements cited by CNS are not implemented via step-by-step operating procedures that would ensure they are performed properly. Key elements alone cannot reliably prevent these accident scenarios and do not meet DOE's established expectations for controls relied upon to protect the public (this is discussed further in the Administrative Controls Credited for Specific Risk Reduction section).

Extent of Condition Review for Hazards without Identified Safety Controls—Based on the initial concerns noted on the W88 program, the Board's staff team conducted an independent extent of condition review. Specifically, the Board's staff team reviewed the B61, W76, W78, and W87 HARs, associated nuclear explosive operating procedures, and sections of applicable SARs. Through this review, the staff team identified similar scenarios on each of the analyzed programs with the exception of B61. After a preliminary review of the B61 HAR, the staff team identified discrepancies in the identification of controls for scenarios with sufficiently unlikely weapon response but did not find any instances of a sufficiently unlikely weapon response without appropriately implemented safety controls. For the remaining programs, the staff team communicated hazard scenarios of concern to NPO and CNS as it identified the scenarios. The specific scenarios are identified in greater detail in the Addendum to this report. At the time of this report, CNS had not reviewed these scenarios via its PIE process as actionable new information, with the exception of those identified for the W88 program.

W76 Hazards without Identified Safety Controls—The staff team identified five weapon configurations during W76 cell operations where the HAR identifies a falling production technician hazard and applies a sufficiently unlikely weapon response for a high order consequence. For these hazard scenarios, there is no credited control. During discussions with NPO and CNS personnel, CNS noted that the ''falling man awareness protocol'' is an applicable control, albeit currently uncredited in the HAR. The protocol includes specific training to ensure the area of approach to a unit is clear of any objects that could lead to a tripping hazard, to ensure approaches to the unit by production technicians are minimized and only performed as needed to support the process, and to ensure that production technicians approach slowly and cautiously. The falling man awareness protocol was developed as a best practice when it was implemented in 2014 [14], in part, to address Board concerns and nuclear explosive safety evaluation findings [1, 15, 16]. However, CNS has since credited the protocol with performing a safety class function as a compensatory measure in B83 and W88 JCOs.[11] CNS also credited the protocol as an operational restriction following a PISA on the W76. The development of the protocol was not intended to meet DOE requirements and guidance for designation as a safety class control. It is not appropriate to credit the falling man awareness protocol as an operational restriction or compensatory measure in lieu of developing engineered controls and/or SACs and process improvements to prevent the hazard.

W78 Hazards without Identified Safety Controls—The staff team identified that the W78 HAR treats sufficiently unlikely weapon responses as screened—an approach that could result in high order consequence scenarios existing in the safety basis without safety class preventive controls. The staff team did not find deficiencies in the W78 HAR similar to those found for the other weapon programs, but this could be due to the lack of clarity in assignment of controls to process steps. Specifically, in the accident analysis, the W78 HAR inappropriately credits controls that are not applicable in all of the process steps for which they are credited to perform a safety function. As a result, the applicable control suite for hazards in each process step is not explicitly defined. Additionally, W78 program cell operations recently implemented a transfer cart, mitigating some falling technician concerns. However, the staff team did identify the following deficiencies in the identification of safety controls for the W78 program in the Sitewide and Transportation SARs.

[10] CNS performed its PIE response for 25 scenarios. The Board's staff team identified additional scenarios during its independent evaluation.

[11] The B83 JCO that includes the falling man awareness protocol as a compensatory measure expired on May 16, 2018. CNS administratively paused B83 operations upon its expiration. The W88 JCO remains in effect.

For a lightning insult scenario, a single control, *i.e.,* a transportation cart, is applied that only decreases the potential for weapon response from the hazard to sufficiently unlikely. Although CNS has additional controls available that could address this gap—*e.g.,* use of a lightning detection and warning system and prohibiting transport (*e.g.,* movement of transportation cart containing unit within the ramps that connect the bays and cells at Pantex) during lightning warnings—W78 transport is currently authorized during lightning warnings. NPO formally has accepted the risk presented by these operations.

During the movement of the unit in other facilities, the unit is at risk from a hydraulic fluid fire (see Addendum). The hazard analysis states that based on the weapon response to this threat, there is no credible response because the frequency is sufficiently unlikely. As a result, Pantex did not identify any safety class controls to prevent the high order consequences from this scenario.

W87 Hazards without Identified Safety Controls—During W87 disassembly operations, the mechanical safe and arm detonator (MSAD) becomes exposed to mechanical impacts prior to its removal. The HAR documents mechanical impact scenarios, including dropped tooling or weapon components, seismic hazards causing an impact, and falling technicians. The identified hazard scenarios of concern apply a sufficiently unlikely weapon response for a high order consequence. Special tooling is installed and the process is defined to minimize hazards; however, the HAR does not identify any credited engineered or administrative controls to prevent the accident.

Additionally, due to the older design of the process, the special tooling itself is the drop hazard in several cases. The W87 program does not have an integrated workstand and does not use process carts to introduce tooling and remove weapon components. These techniques are standard practice for Seamless Safety for the 21st Century (SS–21) [12] tooling and process design and have been used successfully to control similar hazards on other weapon programs. The staff team focused on W87 disassembly operations; similar issues likely exist in assembly operations.

During certain operations, the MSAD is intentionally operated in a controlled manner. The weapon response summary document supporting the HAR includes separate response values applicable to both configurations—where the MSAD is not operated and where it is operated. The likelihood of high order weapon response for scenarios involving mechanical insult to the sensitive area of an operated MSAD is higher than for the un-operated configuration. However, the HAR assumes that it is not credible to impact the sensitive area of the MSAD. The staff team reviewed both the HAR and applicable discussion in the design agencies' weapon response summary document and concluded that CNS has not adequately described the technical basis or referenced supporting documentation to support the HAR's assertion that the scenario is not credible.

Safety Implications—For the weapon programs discussed in the above sections, the staff team identified credible scenarios with potential high order consequences without applied controls. Safety class controls, meeting DOE expectations for such, are necessary to prevent scenarios with IND consequences and prevent or mitigate scenarios with potential HEVR consequences. Without adequate, reliable controls identified in the Pantex DSA, NNSA has not demonstrated that these hazards are prevented or mitigated.

NNSA, CNS, and the design agencies are currently pursuing safety basis updates on the B61 and W88 programs. The updates will improve the overall quality of the HARs by using current practices and methodologies that were not included when the original HARs were developed—*e.g.,* meeting DOE–NA–STD–3016–2016 expectations, including additional implementation guidance. As part of the development process for upcoming modernization of the B61 and W88, both programs' operations are being overhauled, including making special tooling and process improvements and upgrading the hazard analysis with the use of Collaborative Authorization for the Safety-Basis Total Lifecycle Environment-Pantex (CASTLE–PX).

CASTLE–PX is a software tool used to organize, maintain, and track hazards, weapon responses, and controls as Pantex and the design agencies support hazard analysis development and maintenance. Given that the W88 HAR currently is being updated, there would be a limited period where compensatory measures would be needed to allow W88 operations to continue with a compliant and reliable control set. Given the limited time until the new HAR is approved, a near-term JCO that identifies controls to address hazard scenarios with unscreened weapon responses without currently identified controls would be an appropriate vehicle to implement these necessary compensatory measures.

With respect to the W76, W78, and W87 HARs, these programs do not fully use CASTLE–PX, nor have the HARs received a full upgrade since their implementation. With the W76, a subset of bay operations was upgraded via CASTLE–PX in 2013; however, the hazard scenarios of concern identified by the staff team occur during cell operations, which do not have a related HAR upgrade. With no near-term, comprehensive safety basis upgrades planned for the W76, W78, and W87 programs, the staff team believes that timely action is needed to identify controls and make any necessary procedure changes.

Administrative Controls Credited for Specific Risk Reduction. CNS has identified key elements of safety management programs, or the falling man awareness protocol, as the controls relied upon for preventing high order consequences for some of the hazard scenarios that the staff review team identified as lacking credited controls. However, relying on key elements of safety management programs does not provide a level of protection equivalent to an engineered SSC or a properly implemented SAC, and does not comply with codified expectations in DOE directives.

DOE Expectations for Administrative Controls Identified to Prevent or Mitigate Accident Scenarios—When a contractor responsible for operation of a nuclear facility develops the hazard analysis in accordance with DOE–STD–3009, the contractor is required to put in place controls to prevent or mitigate the consequence of hazards that challenge the Evaluation Guideline to an acceptable level. As discussed above, because the consequences from HEVR and IND are so grave, these accidents are assumed to exceed the Evaluation Guideline and therefore require safety class controls.

[12] An SS–21 compliant process is one that incorporates the principles outlined in the Design and Production Manual, Chapter 11.3, *Seamless Safety (SS–21) For Assembly and Disassembly of Nuclear Weapons at the Pantex Plant.* Such a process prevents the application of unauthorized or unanalyzed energy from sources external to the nuclear weapon, contains no single-point failures in the operation, and minimizes radiation exposure to personnel. NNSA and the Pantex M&O contractors implemented SS–21 from 2004–2012; however, the W87 was one of the earlier programs to be evaluated. Subsequent to its implementation on the W87, SS–21 matured substantially. In 2017, NNSA directed CNS to evaluate the potential for undertaking an ''SS–21 refresh'' to implement tooling and processes that would reflect current SS–21 concepts.

If a contractor cannot design engineered controls for an accident scenario, it has the option of developing an administrative control. DOE–STD–1186–2016, Specific Administrative Controls, states, ''SACs shall be designated where an administrative control performs [a safety class (SC)] or [safety significant (SS)] safety function to prevent or mitigate a postulated hazard or accident scenario'' [17]. As such, any administrative control selected to prevent postulated accident scenarios where the consequence is HEVR or IND should be designated in the TSRs as a SAC. Due to the safety importance of SACs (*i.e.,* fulfilling the role of a safety class or safety significant engineered control), these controls require an enhanced pedigree and reliability compared to other administrative controls to ensure their dependability. For example, a human reliability assessment is recommended when developing SACs to ensure their dependability, and a SAC should be written so that it is verifiable through testing, examination, and assessment that it is performing its safety function [17].

Application of Safety Management Program Key Elements for Specific Risk Reduction—Key elements might be identified as part of an administrative control; however, when the administrative control is relied upon to prevent high order hazard scenarios, the critical elements of the control should be designated as SACs, not simply noted as key elements of the administrative control. The following discussion from DOE–STD–3009–2014, Preparation of Nonreactor Nuclear Facility Documented Safety Analysis, is relevant:

> The criteria for designating an [administrative control (AC)] as a SAC include two conditions that need to be met: (1) ACs are identified in the safety analysis as a control needed to prevent or mitigate an accident scenario and (2) ACs have a safety function that would be SS or SC if the function were provided by an SSC. These . . . may serve as the most important control or only control, and may be selected where existing engineered controls are not feasible to designate as SS SSCs. Therefore, when ACs are selected over engineering controls, and the AC meets the criteria for an SAC, the AC is designated as a SAC. Controls identified as part of a safety management program may or may not be SACs, based on the designations derived from the hazards and accident analyses in the DSA. *Programmatic ACs are not intended to be used to provide specific or mitigative functions for accident scenarios identified in DSAs where the safety function has importance similar to, or the same as, the safety function of SC or SS SSCs—the classification of SAC was specifically created for this safety function—this generally applies to the key element of the safety management program that provides the specific preventive or mitigative safety function.* [emphasis added] [18].

DOE–STD–3009 identifies several safety management programs that an M&O contractor might want to consider for inclusion in a potential DSA. The examples include criticality safety, fire protection, and other programs. The standard also discusses key elements of these programs that are critical for ensuring that the program can perform its credited safety function:

> Key elements are those that: (1) are specifically assumed to function for mitigated scenarios in the hazard evaluation, but not designated an SAC; or, (2) are not specifically assumed to function for mitigated scenarios, but are recognized by facility management as an important capability warranting special emphasis. *It is not appropriate for a key element to be identified in lieu of a SAC.* The basis for selection as a key element is specified, including detail on how the program element: (1) manages or controls a hazard or hazardous condition evaluated in the hazard evaluation; (2) affects or interrupts accident progression as analyzed in the accident analysis; and (3) provides a broad-based capability affecting multiple scenarios. [emphasis added] [18].

Application of the Falling Man Awareness Protocol—Recently, CNS has credited the falling man awareness protocol to perform a safety class preventive function as a compensatory measure in B83 and W88 JCOs, as well as an operational restriction for the W76 program. This protocol includes the provisions that specific training will be provided to ensure that:

- Approaches to nuclear explosives are clear of any objects that could lead to a tripping hazard.
- Approaches to nuclear explosives by production technicians are minimized and only occur as needed to support the process.
- Production technicians approach the nuclear explosive slowly and cautiously.

DOE's nuclear safety directives establish a hierarchy of controls that specifies a preference for engineered controls over administrative controls. In instances where engineered controls are not available to prevent the falling technician hazard, CNS should formalize this protocol as a SAC during the next annual safety basis update. This is necessary to meet the intent of DOE directives, as discussed above. Moreover, CNS should consider application of this SAC across the remaining weapon programs and evaluate the application of additional measures (*e.g.,* tooling handoffs, transfer carts, work tables closer to the unit) to increase the reliability of the control. Of note, on the W78 program, a SAC is currently implemented to remove any potential tripping hazards at the beginning of the production technicians' shift. This SAC does not provide the same level of control as the W88 JCO, which seeks to control the falling technician concern throughout the entire shift; however, CNS recently implemented transfer carts for W78 operations, mitigating some falling technician concerns. Adoption of the falling man awareness protocol SAC on the W78 program should also be considered to fully control these scenarios.

Safety Implications—Reliance on procedures and training and other safety management program key elements as controls for specific risk reduction in lieu of designation as a SAC is not appropriate in the Pantex safety basis. There is no reliability assessment or appropriate pedigree associated with the key elements, and reliance on procedures and training has inherent weaknesses. Safety management programs do not have the requisite reliability to assure appropriate prevention or mitigation of hazards with potential consequences that exceed the Evaluation Guideline. A recent report from the Board's Pantex resident inspectors identified multiple breakdowns in the falling man awareness protocol, a compensatory measure that lacks the required pedigree of a SAC [19]. The falling man awareness protocol, if used for specific risk reduction, should be formally codified as a SAC across weapon programs, and application of additional measures, as noted above, should be considered to increase the reliability of the control. In instances where safety management programs are the only measures implemented in the Pantex DSA to control high order consequences, NNSA has not demonstrated that the hazards identified in this report are prevented or mitigated.

Processing of New Information. The USQ process as implemented at Pantex includes a PIE process to evaluate new information, operational events, and discrepant as-found conditions to determine whether they represent a PISA. As part of the PIE process, CNS safety analysts answer the following questions to determine if the problem will be addressed as a PISA:

1. Does the situation indicate that an unanalyzed hazard exists or a potential new credited control is needed?

2. Does the situation indicate that the parameters used or assumed in the DSA, or in calculations used or referenced in

the DSA, may not be bounding or are otherwise inadequate with respect to consequences or frequency?

3. Does the situation indicate that a directive action SAC may not provide the safety function assigned to it within the DSA?

CNS determined that the unscreened hazard scenarios with high order consequences and without credited safety class preventive controls for the W88 program did not warrant a PISA designation. As discussed in detail earlier in this report, the staff team disagrees with CNS's evaluation. Moreover, the staff team does not believe that CNS has met the relevant DOE expectations for processing new information.

DOE Expectations for Evaluating New Information—DOE Guide 424.1–1B, Implementation Guide for Use in Addressing Unreviewed Safety Question Requirements, states the following for timeliness of evaluating new information:

> 10 CFR 830. 203(g) requires certain actions for a PISA. A PISA may result from situations that indicate that the safety basis may not be bounding or may be otherwise inadequate; for example, discrepant as-found conditions, operational events, or the discovery of new information. It is appropriate to allow a short period of time (hours or days but not weeks) to investigate the conditions to confirm that a safety analysis is potentially inadequate before declaring a PISA. The main consideration is that the safety analysis does not match the current physical configuration, or the safety analysis is inappropriate or contains errors. If it is immediately clear that a PISA exists, then the PISA should be declared immediately. [20]

CNS flows down this guidance into its local implementing procedure, CD–3014, Pantex Plant Unreviewed Safety Questions Procedure, as follows:

> If the determination can be readily made that a PISA does not exist within 3 business days from when [new information] is determined to be mature, or an operational event occurs, the decision will be documented. If the determination cannot be readily made in this timeframe, a PISA is declared and documented. [21]

Evaluation of New Information Identifying Credible Hazards without Credited Safety Controls—CNS dispositioned the W88-focused PIE entry after approximately one month, concluding there was no PISA. This lack of timeliness in processing the new information is inconsistent with the expectations of relevant DOE directives and the NPO-approved site implementing procedure. Based on its evaluation of the W88 PIE entry, CNS has not entered the PIE process for the corresponding new information for the other weapon programs discussed above. Furthermore, NPO and CNS informed the staff review team that the DSA will be further improved under the current DSAIP, so more immediate actions are not needed. However, the staff team identified significant problems with relying on DSAIP to address the handling of unscreened ''sufficiently unlikely'' scenarios:

- DSAIP included a core principle to discontinue the use of key elements of safety management programs as a control for specific risk reduction. However, CNS has not defined a timeline or included specific tasks (*e.g.,* individual SARs and HARs) to eliminate this use of key elements. Additionally, although the core principle has been present since the original DSAIP was developed in 2013, the use of key elements as controls for specific risk reduction remains prevalent throughout the DSA.
- DSAIP included an initiative to meet DSA requirements to address high consequence, low probability events. DSAIP revisions 1 and 2 included this initiative with explicit tasks and schedules. However, revisions 3 and 4 included it as a general initiative with an ''ongoing'' schedule status. CNS removed any discussion of high consequence, low probability events from the current DSAIP (revision 5).

In a February 2018 interaction with the Board's staff team and a Board member, NPO and CNS discussed the development of a safety evaluation report to justify the current safety posture [22]. Additionally, NPO and CNS discussed the concept of separating DSAIP into an improvement plan and a ''compliance'' directed plan, the latter of which might be included in support of the safety evaluation report. NPO and CNS are developing the documents to support the proposed safety evaluation report. CNS submitted a JCO [13] to NPO for review and approval on June 29, 2018, to justify the current safety posture and continue operations. However, the submitted JCO does not formalize safety controls for a number of the credible accident scenarios detailed in this report. As of July 27, 2018, NPO was still reviewing the JCO. CNS has not taken any immediate actions in the interim, *e.g.,* identifying and implementing compensatory measures for the applicable scenarios.

Safety Implications—The staff team finds CNS's evaluation of this new information to be inadequate. CNS has continued nuclear explosive operations on all applicable programs without applying compensatory measures or operational restrictions to address the deficiencies identified by the staff team. Furthermore, CNS's disposition of the PIE entry for W88 hazard scenarios failed to meet the timeliness expectations of relevant DOE directives and the NPO-approved site implementing procedure.

Overall Challenges with DSA Quality. Throughout the independent extent of condition review, the staff team encountered numerous DSA quality concerns, including the following:

- Poor documentation of how hazard scenarios are dispositioned.
- Unscreened hazard scenarios not carried forward for control selection.
- Multiple, duplicate scenarios existing in the safety basis document with different control suites selected.
- Unclear documentation of control selection.
- Inappropriate use of safety management program key elements.
- Assumptions in safety basis not protected in the TSRs to show that a hazard is not credible.
- Inconsistencies between HARs on what hazard scenarios require a control.
- Inconsistencies and conflicting statements between different sections of the safety basis document.
- Errors in mapping weapon response rule probabilities from the design agency document to the HAR.
- Unreferenced supporting documentation.

Additionally, while not within Pantex's control, the quantity of different design agency-provided weapon response summary documents for each program can be cumbersome. It is not clear how and when the design agencies update their weapon response summary documents or which weapon response rule version is being implemented.

Each of these quality concerns on its own might not represent a safety issue; however, it is clear that Pantex DSAs are not consistently maintained with appropriate rigor. One way DSAs are maintained and improved is through annual updates, as required by 10 CFR 830. Specifically, 10 CFR 830 requires the M&O contractor to ''[a]nnually submit to DOE either the updated documented safety analysis for approval or a letter stating that there have been no changes in the documented safety analysis since the prior submission . . .'' [10]. In recent years, CNS has had issues with submitting annual updates on a timely basis. For example, in a December 22, 2016, memorandum NPO identified to CNS the concern with safety basis annual

[13] Consolidated Nuclear Security, LLC, *Justification for Continued Operations for Legacy Issues Associated with Documented Safety Analyses at Pantex,* June 29, 2018.

update timeliness, as well as quality concerns. The memorandum identified specific examples, including the annual updates for the W80 and W78 HARs being overdue for more than four and six months, respectively [23]. Additionally, the majority of improvement activities have been de-scoped from Pantex annual updates, leaving little value-added in the update efforts besides incorporating negative USQs into HARs and SARs.

CNS recently started taking actions to address issues with the quality of DSA change package submittals [9]. Throughout 2017, NPO rejected or CNS withdrew numerous DSA change package submittals due to technical and quality issues. While CNS has instituted recent actions intended to improve submittal quality, these actions will not necessarily address the types of DSA quality deficiencies encountered by the staff review team.

Appendix 1 Addendum

Specific Hazard Scenarios with Uncontrolled Hazards. The Board's staff team reviewed Hazard Analysis Reports (HAR) and select portions of the Safety Analysis Reports (SAR) for five weapon programs—B61, W76, W78, W87, and W88. The staff team reviewed the hazard disposition tables and related hazard and accident analyses located in the approved HARs and SARs, and found that they contained hazard scenarios with unscreened weapon responses for inadvertent nuclear detonation (IND) and high explosive violent reaction (HEVR) consequences where safety class controls were not clearly applied. The tables below identify the specific scenarios of concern. The tables include the hazard identification number referenced in each corresponding HAR or SAR, a description of the insult type, the credited controls (if any) for high order consequences, and additional staff comments. Of note, while thorough, the staff team's review of applicable safety basis documents is not exhaustive. Additional scenarios with similar concerns may exist.

W88. The Board's staff team reviewed the W88 HAR. The HAR categorizes certain unscreened scenarios as ''sufficiently unlikely'' to result in weapon response with a high order consequence. In several such scenarios, although the HAR identified a control, the staff team identified an issue with the documentation of the control. For the remaining such scenarios, the HAR did not identify an appropriately documented control. In the table below, superscript numerals within each row associate applied controls to the hazard scenarios (if no superscript exists, the control applies to all listed hazards).

Hazard ID	Insult type	Currently applied controls	Board's staff team comments
C.DI.6.I.06	Drop	Personnel Evacuation (Specific Administrative Control [SAC]).	No safety class controls applied to mitigate/prevent high order consequences. Control of Equipment (SAC) could be applied as preventive control.
C.ADI.I.20,[1] C.A.22.I.11,[1] C.A.23.I.02,[1] C.A.24a.I.06,[1] C.A.19.I.15,[1] C.DI.6.I.02,[1] C.ADI.I.21[2].	Falling Technician	Safety Management Program (SMP) Key Element (Procedures and Training).* Nuclear Explosive Cells Facility Structure.[1] Personnel Evacuation (SAC)[2].	Facility Structure credited to mitigate some HEVR consequences, but no sufficient controls applied to prevent IND or to protect immediate vicinity from HEVR. SMP Key Element inappropriately used for risk reduction.
C.DI.7.I.04, C.ADI.I.22	General Falling Technician	Use of Process Transfer Cart (SAC).	Two example scenarios listed are not all inclusive. Use of Process Transfer Cart (SAC) applies for production technician manipulating special tooling, but does not apply for second technician without special tooling approaching unit.
C.ADI.I.29	Falling Technician	Personnel Evacuation (SAC). Procedures and Training SMP.* Conduct of Operations SMP*.	No safety class controls applied to prevent/mitigate high order consequences. SMPs inappropriately used for risk reduction.
C.DI.6.G.02	Scrape	No controls applied	In response to the 11/16/2017 problem identification and evaluation entry, Consolidated Nuclear Security, LLC (CNS) concluded this event is not credible. The basis for this determination is unclear given the probability of insult specified in the approved HAR. As a result, no safety class controls applied to prevent/mitigate high order consequences.
C.DI.7.G.01	Scrape	Procedures and Training SMP*.	No safety class controls applied to prevent/mitigate high order consequences. SMP Key Element inappropriately used for risk reduction.
C.DI.9.I.04,[1 2] C.DI.9.I.08,[3 4] C.DI.10.I.09,[3 4] C.DI.10.I.10,[1] C.DI.11.I.08,[3] C.DI.12.I.06,[3 4] C.DI.14.G.02,[3] C.A.1.I.01,[3 4] C.A.3.G.02,[3] C.A.12.I.01,[3 4] C.A.12.I.02,[3 4] C.A.14.I.04,[3 4] C.A.16.I.02,[3] C.A.17.I.16,[3] C.ADI.I.41,[1] C.ADI.I.70[3].	Drop, falling technician, and gouge scenarios resulting in HEVR consequences only (no IND).	Personnel Evacuation (SAC).[1] SMP Key Element (Procedures and Training),[2]* Procedures and Training SMP.[3]* Conduct of Operations SMP.[4]*	The Nuclear Explosive Cells Facility Structure could be credited to mitigateHEVR consequences but would not protect the immediate vicinity.

Hazard ID	Insult type	Currently applied controls	Board's staff team comments
C.DI.12.I.03, C.DI.15.I.02, C.A.2.I.03, C.A.3.I.04, C.A.4.I.06, C.A.10.I.02.	Drop and falling technician scenarios resulting in HEVR consequences only (no IND).	No controls applied	The Nuclear Explosive Cells Facility Structure could be credited to mitigate HEVR consequences but would not protect the immediate vicinity.

* SMP Key Element (Procedures and Training) or SMPs (Procedures and Training or Conduct of Operations) are discussed in the HAR as a reason to accept the risk without applied safety class controls. It is not clear where attributes of the Procedures and Training Key Element are developed for specific application to W88 operations (*i.e.*, neither in W88 HAR nor Sitewide SAR).

Source: (U) W88 Disassembly & Inspection and Assembly Hazard Analysis Report, AB–HAR–941335, Issue 28, January 31, 2018.

Extent of Condition Review for Hazards without Identified Safety Controls—Based on the concerns identified in the W88 HAR, the Board's staff team conducted an independent extent of condition review. Members of the Board's staff reviewed the B61, W76, W78, and W87 HARs, associated nuclear explosive operating procedures, and sections of applicable SARs. Through this review, the staff team identified similar scenarios on each of the analyzed programs with the exception of the B61.

B61. After a preliminary review of the B61 HAR, the staff team identified discrepancies in the identification of controls for scenarios with sufficiently unlikely weapon response but did not identify concerns related to the application of a sufficiently unlikely weapon response without appropriately identified implemented safety controls. The hazard scenarios below include safety basis quality issues.

Hazard ID	Insult type	Currently applied controls	Board's staff team comments
5324, 5325, 5329, 5342, 5526, 5529, 5557, 5558, 5571, 5572, 5799, 12716.	Drop/Pressure of Force	Special tooling	Special tooling has safety significant functional requirements to address low order consequences but is not designated safety class because the HAR asserts that high order consequences are sufficiently unlikely. Based on the specifications of the special tooling program, there are limited differences between analysis activities required to meet safety significant functional requirements and safety class functional requirements. Additionally, each of the tools relied upon to prevent the accident have other safety class functional requirements applied for other hazard scenarios.
5333	Impact or Crush by an Object (hose whip).	Safety Cable, Tyrap, Filament Tape, Material Access Area Operations Requirement (Sitewide SAR).	This scenario, as listed in the HAR, is controlled for several other weapon configurations. Authorization Basis Change Packages 18–06 and 17–62 implement a new control suite to require air hose restraints to be used, including step-by-step implementation with two technician verification. Per the new control description, as specified in B61 HAR section 4.3.1 and Sitewide SAR section 4.3.50, the controls do not explicitly apply to the ultimate user configuration; however, Hazard ID 5333 applies to the ultimate user configuration and lists HEVR and IND consequences as sufficiently unlikely. Rule 2.7.1 in GE1A4947, (U) General Engineering, Weapon Response Summary, B61, Issue C, indicates that this hazard screens in this configuration.

Source: (U) B61 SS–21 Hazard Analysis Report, AB–HAR–940572, Issue 44, January 18, 2018.

W76. The staff team identified the following hazard scenarios during W76 operations that have inadequate controls assigned.

Hazard ID	Insult type	Currently applied controls	Board's staff team comments
2.1.16.3, 2.1.17.3, 2.1.18.3	Mechanical Impact	Facility Structure	Section 3.4.2.2.6 of the HAR states: ''Given the nature of these operations and the actions that would be required to produce a weapon response, no additional Task Exhaust or Pump Fixture controls are assigned to further reduce the potential for an impact from these items. The event contributors for Rules 2.1.16.3, 2.1.17.3, 2.1.18.3, 2.1.20.3, and 2.1.21.3, which are all uncased [high explosive] configurations, are dominated by an impact from a Production Technician that trips and falls into the uncased HE [high explosive] configuration. No controls were identified that could further reduce the potential for a trip.'' Facility Structure is credited to mitigate HEVR consequences, but no sufficient controls are applied to prevent IND or protect immediate vicinity from HEVR.
2.1.13.8, 2.1.14.11, 2.1.14.16, 2.1.14.2, 2.1.14.4, 2.1.23.16, 2.1.23.18, 2.2.2.21, 2.2.2.24, 2.2.5.8.	Mechanical Impacts to the CSA.	Personnel Evacuation (SAC).	The referenced scenarios list a Burning Dispersal response of sufficiently unlikely; however, the applicable weapon response summary document lists the burning dispersal response as screened. The prior revision of the weapon response summary document lists the burning dispersal response as sufficiently unlikely, so the HAR appears to present outdated information.
2.2.2.22	Mechanical Drop/Topple/Swing/Push.	Personnel Evacuation (SAC).	The referenced rule is not listed in the referenced weapon response summary document. The prior revision of the weapon response document contained a rule that was formerly applicable. Based on the current weapon response summary document, the staff team concluded there is no control deficiency in this instance.

Source: (U) W76–0/1 SS–21 Assembly, Disassembly & Inspection, and Disassembly for Life Extension Program Operations Hazard Analysis Report, RPT–HAR–255023, Issue 71, November 30, 2017.

W78. The staff team identified the following hazard scenarios during W78 operations that have inadequate controls assigned.

Hazard ID	Insult type	Currently applied controls	Board's staff team comments
B.2.H.1, B.3.H.1, B.4.H.1	Exothermic Reaction	Sufficient control set for HEVR.	The HAR inappropriately uses combined frequency (*i.e.,* initiating event frequency with weapon response) to remove IND from further consideration. However, sufficient controls applied for HEVR consequences.
Sitewide SAR, (Rule 4.4.3)	Lightning	W78 Transportation Configuration.	The HAR asserts that the mitigated weapon response, with the applied control, is sufficiently unlikely, so no additional controls were applied. Similar concerns apply to other weapon programs.
Transportation SAR, (Rule 3.1.3).	Hydraulic Fluid Fire	No controls applied	No controls applied for high order consequences. According to the Transportation SAR, ''Based on weapon response, no credible response as frequency is Sufficiently Unlikely.'' Similar concerns apply to other weapon programs.

Source: (U) W78 Step II Disassembly & Inspection and Repair Hazard Analysis Report, AB–HAR–319393, Issue 63, September 22, 2017; (U) Transportation SAR, AB–SAR–940317, Issue 81, September 19, 2017; (U) Sitewide SAR, AB–SAR–314353, Issue 288, January 31, 2018.

W87. The Board's staff team reviewed the disassembly portion of the W87 HAR. Although not reviewed, similar concerns likely exist with the assembly portion of the W87 HAR. The identified hazard scenarios of concern apply a sufficiently unlikely weapon response for a high order consequence. In several instances, the control set is adequate; however, there is a safety basis quality issue with the documentation of the control. With the remaining instances, a sufficiently unlikely weapon response for a high order consequence exists without an appropriately documented control.

Hazard ID	Insult type	Currently applied controls	Board's staff team comments
B.ISMO.14.D.02, B.ISMO.16.D.02.	Drop of unit	Special Tooling. Verification of Proper Installation of the Nuclear Explosive/Tooling Interface (SAC).	While the staff team believes the control set to be adequate, the documentation of the hazard scenario does not appear to be fully developed. Tables 3.4.2.2.3–5 and –6 of the HAR state that the particular high order consequence related to the sufficiently unlikely weapon response is not carried forward for further evaluation, *i.e.,* control selection.
D32WS–48, D32WS–52, D32WS–86, D32WS–100, D32WS–129.	Drop of weapon component and/or tooling onto configuration, Falling technician.	No controls applied	Table 3.4.2.1.3–3 of the HAR states that the particular high order consequence related to the sufficiently unlikely weapon response is not carried forward for further evaluation, *i.e.,* control selection.
B.ISMO.24.I.03, (3rd instance, Rule 2.1.4.26a), B.ISMO.24.I.09, (1st instance, Rule 2.1.4.25a), B.ISMO.24.I.09, (2nd instance, Rule 2.1.4.25a), B.ISMO.24.I.09, (3rd instance, Rule 2.1.4.25a).	Drop of weapon component and/or tooling onto configuration, Falling Technician.	No controls applied	Table 3.4.2.1.3–4 of the HAR states that the particular high order consequence related to the sufficiently unlikely weapon response is not carried forward for further evaluation, *i.e.,* control selection. An example of special tooling that could be dropped and result in an impact to the sensitive area of the component (per CODT–2004–0295 Rev. 6, the Lawrence Livermore National Laboratory weapon response summary document) is any of the three guide bearings during their removal. The removal of the guide bearings occurs after a protective cover (Skull Cap) has been removed, but before the component is removed. Note that the Skull Cap is not a credited safety class control. The Skull Cap is analyzed for a particular force but has not been evaluated to ensure it could perform a safety requirement if needed. For a falling technician, the impact location is not controlled to prevent impact to the sensitive area.
N/A	Drop of hand tool onto sensitive area of component.	No controls applied	HAR does not include this scenario for the unique operation and configuration analogous to Hazard ID D32WS–86 above.
D32WS–70	Drop of flashlight with electrical coupling.	Approved Equipment Program.	Section 3.3.2.1 of the HAR states that the electrical hazard is sufficiently unlikely, and therefore, not carried forward for further evaluation. CODT–2004–0295 Rev. 6 states that the weapon response does not screen. However, CODT–2004–0295 Vol. 2 Rev. 3 clarifies that the weapon response screens. The staff team concluded that the scenario does screen, but the discussion in Section 3.3.2.1 is inappropriate, and lack of a singular weapon response summary document makes for unclear documentation.
D33WSa–18, D34WS–12, D34WS–14.	Drop of weapon component and/or tooling onto configuration.	No controls applied	Table 3.4.2.1.3–3 in the HAR states that the high order consequence is sufficiently unlikely and the hazard is not carried forward for further evaluation.
D34WS–41	Falling technician while carrying special tooling (metal with hard corners/edge).	No controls applied	Table 3.4.2.1.3–3 in the HAR states that the high order consequence is sufficiently unlikely and the hazard is not carried forward for further evaluation.
N/A	Falling technician resulting in an impact to the sensitive area of component.	No controls applied	The HAR's Appendix does not include this scenario for the unique operation and more sensitive orientation (after rotating) of configuration analogous to Hazard ID D34WS–41 above. Similar hazard scenarios (D34WS–43, D34WS–50, D34WS–60) assume the technician will only impact the side of the unit. The staff team believes a direct impact from a falling technician to the sensitive area is a credible hazard.
B.ISMO.26.I.01	Drop of Hand Tool onto configuration.	No controls applied	The HAR's Appendix states that the orange stick is the only tool used during this configuration and that weapon response ''a'' applies. The staff team notes that the selected weapon response (2.1.5.15) does not relate to the discussion in the HAR's Appendix. The more sensitive orientation (after rotating) is not considered. The staff team believes that given the postulated energies, weapon response 2.1.5.11b would be applicable. That response is applicable because any postulated impact could occur over the sensitive area. However, if the orange stick is the only tool that can be used in this task, then this hazard scenario would not be credible.

Hazard ID	Insult type	Currently applied controls	Board's staff team comments
B.ISMO.26.I.03	Drop of special tooling onto configuration.	No controls applied	The HAR's Appendix states that the design of the tool prevents a direct impact to the sensitive area of the component; therefore, weapon response "a" is applied. There is not an adequate basis for this assertion. While the weapon response summary document provides a probe size example, it also states the "b" weapon response applies if the insult is over the sensitive area. The staff team believes the special tooling could impact the sensitive area; therefore, weapon response "b" should be applied. Additionally, the tooling has sharp (*i.e.,* 90 degree) corners.
N/A	Technician trips resulting in an impact to the sensitive area of component.	No controls applied	The HAR's Appendix does not include this scenario for the same configuration and orientation analogous to Hazard ID B.ISMO.26.I.03 above.
N/A	Mechanical impact due to hand tool drop.	No controls applied	Rule 2.1.5.24a is not referenced in the HAR's Appendix. However, the "a" weapon response is used to develop the impact scenario frequencies in Table 3.4.2.1.3–2. There is not an adequate basis for the selection of the "a" weapon response usage. The reviewers believe the special tooling could impact the sensitive area; therefore, weapon response "b" should be applied. Additionally, most articles of tooling have sharp (*i.e.,* 90 degree) corners.

Source: (U) W87 Step II Assembly and Disassembly & Inspection Hazard Analysis Report, AB–HAR–940626, Issue 41.

Appendix 1 References

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[3] Department of Energy, Preparation Guide for U.S. Department of Energy Nonreactor Nuclear Facility Documented Safety Analyses, DOE–STD–3009–1994 Chg Notice 3, Washington, DC, 2006.

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[5] Authorization Basis Department, Babcock & Wilcox Technical Services Pantex, LLC, The Documented Safety Analysis Improvement Plan (DSAIP), Revision 1, Pantex Plant, July 25, 2013.

[6] Safety Analysis Engineering Department, Consolidated Nuclear Security, LLC, The Documented Safety Analysis Improvement Plan (DSAIP), Revision 3, Pantex Plant, February 16, 2015.

[7] Safety Analysis Engineering Department, Consolidated Nuclear Security, LLC, The Documented Safety Analysis Improvement Plan (DSAIP), Revision 4, Pantex Plant, February 29, 2016.

[8] Safety Analysis Engineering Department, Consolidated Nuclear Security, LLC, The Documented Safety Analysis Improvement Plan (DSAIP), Revision 5, Pantex Plant, September 21, 2017.

[9] Memorandum from M.S. Beck to K.D. Ivey, Quality of Pantex Safety Basis Submittals, Pantex Plant, February 20, 2018.

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[17] Department of Energy, Specific Administrative Controls, DOE–STD–1186–2016, Washington, DC, December 2016.

[18] Department of Energy, Preparation of Nonreactor Nuclear Facility Documented Safety Analysis, DOE–STD–3009–2014, Washington, DC, 2014.

[19] Defense Nuclear Facilities Safety Board, Pantex Plant Activity Report for Week Ending April 20, 2018, Pantex Plant, April 2018.

[20] Department of Energy, Implementation Guide for Use In Addresssing Unreviewed Safety Question Requirements, DOE–G–424.1–1B, Chg. Notice 2, Washington, DC, 2013.

[21] Consolidated Nuclear Security, LLC, Pantex Plant Unreviewed Safety Questions Procedure, CD–3014, Pantex Plant, July 2017.

[22] Consolidated Nuclear Security, LLC, DNFSB Member Visit to Pantex—Joyce Connery, Pantex Plant, February 2018.

[23] Memorandum from K.A. Hoar to J. Papp, NNSA Production Office Expectations for Pantex Documented Safety Analysis (DSA) Annual Updates, Pantex Plant, December 22, 2016.

Findings, Supporting Data, and Analysis

Appendix 2

Nuclear Safety Management at the Pantex Plant [14]

The Defense Nuclear Facilities Safety Board's (Board) conducted a safety investigation (preliminary safety inquiry) [1] of the implementation of Title 10, Code of Federal Regulations, Part 830 (10 CFR 830), Nuclear Safety Management, for nuclear explosive operations at the Pantex Plant located near Amarillo, Texas [2]. Overall, the inquiry team found that (1) portions of Pantex safety bases are deficient; (2) multiple components of the safety basis process are deficient; and (3) the National Nuclear Security Administration (NNSA) Production Office (NPO) and the contractor, Consolidated Nuclear Security, LLC (CNS), have been unable to resolve known safety basis deficiencies.

Pantex Safety Basis Requirements. Table 2 of 10 CFR 830, Subpart B, Safety Basis Requirements, prescribes the methodologies and requirements for preparation of safety analysis reports

[14] Report published on July 13, 2018, and subsequently modified to incorporate issuance of the JCO, *Justification for Continued Operations for Legacy Issues Associated with Documented Safety Analyses at Pantex,* dated June 29, 2018. Report does not reflect retraction of the JCO and issuance of the Safety Basis Supplement, *Safety Basis Supplement for Legacy Issues Associated with Documented Safety Analyses at Pantex,* dated September 18, 2018.

(SAR) and hazard analysis reports (HAR) for nuclear explosive facilities and operations. SARs are required for the facilities associated with nuclear explosive operations. These SARs include the Sitewide SAR, Bays and Cells SAR, and various special purpose nuclear facility SARs. An approved method of meeting the requirements of 10 CFR 830 for SARs is described in Department of Energy (DOE) Standard 3009, Preparation Guide for U.S. Department of Energy Nonreactor Nuclear Facility Safety Analysis Reports [3]. HARs are required for specific nuclear explosive operations. Hazard analysis teams prepare HARs using weapon response inputs from the associated weapon design agencies. An approved method of meeting the requirements of 10 CFR 830 for HARs is described in Department of Energy (DOE) Standard 3016, Hazard Analysis Reports for Nuclear Explosive Operations [4].

Review Scope. The staff team reviewed the following areas in assessing compliance with 10 CFR 830:

• *Controls to Prevent/Mitigate Unscreened Weapon Hazard Scenarios.* The staff team selected two HARs (*i.e.,* W76 and W78) for review [5, 6]. It evaluated the hazard analyses in the HARs for events that result in inadvertent nuclear detonation (IND) and/or high explosive violent reaction (HEVR). For each event that was not screened as physically incredible by the weapon design agency, the staff team evaluated the adequacy of the safety control set to prevent or mitigate the event. Identification of hazard controls to ensure adequate protection is required by 10 CFR § 830.204.

• *Implementation of USQ Process.* An unreviewed safety question (USQ) process is required by 10 CFR § 830.203 to ensure that operations are conducted within the DOEapproved safety basis. The staff team evaluated the USQ process implemented at Pantex. It reviewed USQ procedures, specific deficiencies identified in a potential inadequacy of the safety analysis (PISA), and justifications for continued operations (JCO).

• *Safety Basis Maintenance.* SARs and HARs are required to be updated and maintained in accordance with 10 CFR § 830.202. These requirements obligate the contractor annually to submit updates or a letter stating no changes have been made since the last submittal. The staff team reviewed safety basis maintenance to include annual updates and improvement plans.

The staff team reviewed the pertinent documents, prepared agendas, and held onsite discussions with representatives from NPO and CNS. It conducted the onsite visits during the weeks of May 28 and June 11, 2018. The onsite visits included observing nuclear explosive operations involving the W76 and W78 programs.

Conclusions. The staff team found that (l) portions of Pantex safety bases are deficient; (2) multiple components of the safety basis process are deficient; and (3) NPO and CNS have been unable to resolve known safety basis deficiencies. The conclusions are summarized below with the detailed evidence to follow:

• Portions of the safety bases are deficient in meeting 10 CFR § 830.204(b). There are high consequence hazards that (1) are not adequately controlled; (2) may have controls, but the controls are not clearly linked to the hazards; or (3) have controls that are not sufficiently robust or that lack sufficient pedigree to reliably prevent or mitigate the event. This conclusion is supported by observations 1 through 6 below.

• Multiple components of the safety basis process are deficient. (1) Contrary to 10 CFR § 830.202(c), CNS has failed to update annually the HARs and SARs. (2) Contrary to 10 CFR § 830.203(g), Pantex USQ procedures allow three days to correct discrepant-as-found conditions or implementation/execution errors without stopping operations, notifying DOE, or issuing a PISA. (3) Contrary to DOE G 424.1–1B, NPO and CNS revise existing JCOs instead of issuing new ones, thereby extending the expiration date and reliance on the compensatory measures beyond a year. (4) Contrary to DOE Guide 423.1–1B, CNS does not re-assess procedural controls via implementation verification reviews (IVR) every three years. This conclusion is supported by observations 7 through 10 below.

• NPO and CNS have been unable to resolve known safety basis deficiencies. (1) NPO and CNS have been unable to resolve several legacy conditions of approval (COA). (2) CNS has a Documented Safety Analysis Improvement Plan (DSAIP) that lacks sufficient information and resource loading required for the process to be successful, and is behind schedule. (3) Despite the fact that issues related to falling technician accident scenarios were identified in 2010, there is no timeline for improvements to be incorporated into the safety basis. This conclusion is supported by observation 11 below.

The staff team noted 11 observations over the course of its review that support these conclusions:

1. Missing Specific Administrative Control (SAC) for Operators Applying Brakes on Testers—The W76 HAR identifies multiple events with credible IND and HEVR consequences that require safety class controls but are prevented by an initial condition. The initial condition is a safety management program (SMP) (*i.e.,* Electrical Equipment Program for Testers). The SMP ensures that the design of electrical testers (*e.g.,* PT3746 Preset Tester) precludes mechanical and electrical insults to the weapon. The initial condition in the HAR references Section 18.2.3 of the Sitewide SAR. The Sitewide SAR, page 18–16, states that testers are ''[d]esigned to withstand the forces of a 95th percentile person falling into the tester without the tester tipping or moving the target'' [7]. However, this analysis relies on the operator engaging a wheel locking device. Therefore, the design requirements contained in the SMP are insufficient as the lone control for this event. The operator action of engaging the wheel locking device is not protected by a SAC and is not marked as a critical step in the procedures. Additionally, the tester is not credited as a safety class design feature in the hazard analysis tables. The review team concludes the safety control set for these events does not meet DOE requirements. CNS generated a problem identification and evaluation (PIE) form (PIE–18–537) and issued a PISA following the onsite discussions. The PISA was followed by a positive USQ determination.

2. Analysis Supporting Adequacy of Safety Class Carts not Bounding—The W78 HAR includes events involving toppling of a preparation cart while carrying various items. The weight of the cart and items on top of it are assumed to impact a weapon configuration. This event results in the need for safety class controls since IND and HEVR are not screened by the design agency. The preventive control for this event is the design of the preparation cart. The HAR, Section 4.3.l.l.2, credits the preparation cart with the functional requirement to ''. . . withstand the forces imparted by a 95th percentile Production Technician as well as the forces due to a PC–3 [performance category–3] seismic event without toppling into the unit.'' However, the assumed weight of the items on the cart in the HAR event exceeds the assumed weight in the supporting engineering analysis [8]. Therefore, the engineering analysis does not adequately demonstrate that the preparation cart is capable of fulfilling its safety functional requirements. CNS generated a PIE form (PIE–18–539) and

issued a PISA following the staff team's onsite discussions. CNS followed the PISA with a positive USQ determination.

3. Missing Safety Class Controls for Impact and Electrostatic Discharge (ESD) Events—The W76 HAR identifies rolling impact and ESD events involving a weapon configuration that represents a general bin of 16 separate configurations. The rolling impact is caused by production technicians pushing ''freestanding equipment'' into the 16 different weapon configurations. Freestanding equipment is defined as equipment or tooling not attached to the facility and not hand carried. The rolling impact events require safety class controls since the design agency did not screen them for IND and HEVR. The ESD events are postulated from production technicians being in contact with freestanding equipment or the wrist strap checker. The documented safety analysis currently requires safety significant controls for these ESD events. The preventive control for the rolling impact and ESD events is a SAC (*i.e.,* W76 Operations—Control of Equipment and Tooling). Among other requirements, this SAC prohibits freestanding equipment not required by the W76 process from being placed within 6.5 feet of any W76 configuration installed in the assembly stand, insertion cart, or assembly carts. Designating this SAC for these events as a preventive control results in several errors:

- The SAC does not include all freestanding equipment that could cause a rolling impact or ESD event (*e.g.,* a tool box) to the weapon configurations. Therefore, this freestanding equipment excluded from the SAC represents an uncontrolled hazard.
- The ESD event involving a wrist strap checker credits the SAC as a preventive control, but the SAC does not include the wrist strap checker in the list of included equipment. Therefore, the wrist strap checker needs to be added to the SAC. The Nuclear Explosive Operating Procedures (NEOPs) and other technical procedures do include a safety requirement for production technicians to not bring the wrist strap checker near the weapon. However, this requirement does not flow down from this SAC.
- The SAC states that the 6.5-foot exclusion zone applies to W76 configurations installed in the assembly stand, insertion cart, or assembly carts. Although the majority of the 16 weapon configurations are processed in an assembly cart, the components that make up these configurations are processed on a bench or table. The SAC does not apply to operations on a bench or table.
- Some tools included in the list of freestanding equipment do not have wheels. Therefore, it is inappropriate to include these pieces of equipment in rolling impact events.

CNS generated a PIE form (PIE–18–536) and issued a PISA following the onsite discussions. The PIE form states: ''A PISA was declared on 5/31/18, which resulted in pausing W76–0/1 Mechanical Assembly and Disassembly bay operations until operational restrictions were implemented.'' CNS followed the PISA with a positive USQ determination.

4. Non-Credited Administrative Controls/Training Used in Place of Safety Class Controls for ESD Hazards—The W76 HAR identifies multiple events with credible IND and HEVR consequences that are dispositioned by a ''Category 2 Equipment Evaluation.'' These events require safety class controls since the design agency did not screen them for IND and HEVR. The hazard analysis tables contain a note that refers to equipment evaluations for the Overhoff monitor/hose and wrist strap checkers (*i.e.,* EEE–06–0030 and EEE–06–0037, respectively) [9, 10]:

- EEE–06–0030 provides ''General Requirements'' that prescribe keeping the Overhoff more than 6.5 feet away from a nuclear explosive during ''Radiation Safety Usage.'' During ''Manufacturing Usage'' the Overhoff may make contact with a nuclear explosive using a short hose, which has a credited insulator. CNS personnel explained that during ''Manufacturing Usage'' the production technicians hold the Overhoff in one hand while guiding the hose to the nuclear explosive with the other hand (within ¼ inch of the nuclear explosive). The NEOPs do not include safety requirements, critical steps, warnings, cautions, or general notes that alert the production technicians to potential hazards associated with dropping the Overhoff onto the nuclear explosive. CNS personnel stated in onsite discussions that hazards involving the Overhoff are not credible due to its intended use and production technicians' ''normal behavior'' via training; thus no control is identified for this hazard.
- EEE–06–0037 prescribes a 6.5-foot standoff distance for the wrist strap checker from all explosives and nuclear explosives and references P7–2003, Weapon Assembly/Disassembly Operations Requirements (U) [11], as the implementing procedure. P7–2003 is a general use level procedure that implements the standoff distance requirement for the wrist strap checker via a boxed note. The staff team also reviewed the NEOPs that are critical-use-level procedures (higher level than general use). The staff team found that the NEOPs include a safety requirement to not carry the wrist strap checker to the unit. The production technicians are required to be familiar with the NEOP safety requirements, but they are not required to read them prior to performing NEOP steps. The NEOPs also do not specify a specific standoff distance (*i.e.,* 6.5 feet). The wrist strap checker is secured to the wall in a bracket but may need to be removed for calibration. CNS personnel stated that production technicians and calibration technicians are trained to not bring the wrist strap checker within 6.5 feet of a nuclear explosive, referencing TABLE–0068, Safety Checklist, which contains additional requirements for maintaining a 6.5-foot standoff distance to a nuclear explosive [12]. TABLE–0068, however, is not part of the technical safety requirements (TSR) for nuclear explosive operations.

The staff team finds that Pantex personnel ultimately rely on non-credited administrative controls and production technician training to implement safety class functional requirements for HAR events involving the Overhoff monitor/hose and wrist strap checkers. There are no credited safety class controls for these events. The review team concludes that this situation does not meet DOE requirements for identification of safety class controls for high consequence events, and as such represents a PISA. CNS has not declared a PISA regarding its controls for these hazards.

5. Missing Safety Class Controls for Production Technician Tripping Hazards—The W78 HAR identifies multiple events involving a production technician who trips and impacts the unit in various configurations. This event results in the need for safety class controls since IND and HEVR are not screened by the design agency. The hazard analysis tables do not identify controls specific to these events. Instead, the hazard analysis tables refer to Section 3.4.2.4 of the HAR, dedicated to evaluating impact hazards. Section 3.4.2.4 lists the identified controls for this hazard. After reviewing the list of controls, the most applicable control is a SAC (*i.e.,* W78 Process—Tripping Hazards), designated in the HAR to perform functions equivalent to a safety-significant control. This SAC requires production technicians to check for tripping hazards once per shift.

The staff team traced the SAC requirement to NEOPs. The NEOPs do contain critical steps in their setups that

require signature for ensuring tripping hazards have been removed. However, if this SAC is implemented to prevent the event (*i.e.,* production technician trip), it would be an inadequate safety class preventive measure because it does not prevent the tripping hazards from accumulating during operations. As a result, the review team concludes that the events involving a production technician trip are uncontrolled. During onsite discussions, Pantex personnel agreed that they do not have adequate controls in place for tripping events identified in the HAR. However, CNS personnel stated that this is a known deficiency and CNS is developing a JCO.[15] Per 10 CFR § 830.203(g), CNS is required to enter the PISA process and implement operational restrictions prior to issuing a JCO. The review team concludes that this situation does not meet DOE requirements and as such represents a PISA. CNS has not declared a PISA regarding its controls for these hazards.

6. Drop Hazards—The W78 HAR identifies several drop events involving a shielded apron or various pieces of equipment, tooling, or materials impacting weapon configurations from a height of two or four feet. These events result in the need for safety class controls since the design agency did not screen them for high order consequences. A SAC (*i.e.,* W78 Process—Hand Lifts) is one of the credited controls to prevent this event. The SAC flows down to safety requirements at the beginning of the NEOPs. The SAC justifies reliance on production technician training by stating:

> With the training to the technicians on not lifting hand tools, tooling, and materials over the unit unless required for the process and to only lift the object as high as required for the operation, both the frequency of a drop that would impact the units [is] reduced, and the possible impact energy is reduced if a drop were to occur. . . . Based on the height of the unit being worked on, there would be no reason to lift the hand tooling 2 feet over the unit and it would be an unnatural act to do so. It is not considered credible that the tooling would be lifted more than 2 feet over the unit and dropped.

Similarly, although not explicitly stated in the SAC, the NEOPs also cite a specific safety requirement for the shielded aprons to be relocated to staging cubicles or corridors out of direct line of sight of the cells when not in use. However, contrary to MNL–293084, Pantex Writer's Manual for Technical Procedures, the NEOPS do not provide critical steps or warnings when handling the specific equipment or materials, that when dropped, could initiate a high order consequence [13]. The staff team discussed the shielded apron and six different individual pieces of equipment considered in the HAR during the site visit. CNS stated that production technicians are sufficiently trained to not lift items more than 2 feet over the weapon. Given the high consequences, the SAC would be strengthened by adding additional specificity (*e.g.,* do not lift equipment higher than a set height above the weapon). In addition, consistent with MNL-293084, the NEOPs should include critical steps or warnings when handling specific equipment or materials that could initiate a high order consequence if dropped.

7. Process for Discrepant As-Found Conditions—The site USQ procedure, approved by NPO, does not comply with the requirements of 10 CFR 830 or recommendations of DOE Guide 424.1–1B, Implementation Guide for Use in Addressing Unreviewed Safety Question Requirements [14].[16] In situations when a ''discrepant as-found condition'' is observed for a TSR-related control, the procedure allows returning the system to the original condition as described in the documented safety analysis (DSA) within three days without having to declare a PISA, formally notifying DOE, performing an extent of condition review, or implementing any compensatory measures.

10 CFR § 830.203, *Unreviewed Safety Question Process,* requires the contractors to ''establish, implement, and take action consistent with a USQ process that meets the requirements of this section.'' Paragraph (g) of this section states: ''If a contractor responsible for a hazard category 1, 2, or 3 DOE nuclear facility discovers or is made aware of a potential inadequacy of the documented safety analysis, it must:

1. Take action, as appropriate, to place or maintain the facility in a safe condition until an evaluation of the safety of the situation is completed;
2. Notify DOE of the situation;
3. Perform a USQ determination and notify DOE promptly of the results; and
4. Submit the evaluation of the safety of the situation to DOE prior to removing any operational restrictions. . . . ''

CNS has prepared a USQ procedure, CD–3014, Pantex Plant Unreviewed Safety Question Procedure [15], approved by NPO, that does not comply with the requirements of 10 CFR 830. More specifically, Procedure CD–3014 allows the following:

> If the discrepant as-found condition can be restored to be within the DSA in a matter of hours, not to exceed three business days, a *PISA does not exist* [emphasis added]. This is limited to conditions where 1) an SSC [structure, system, or component] does not conform to the documented design description and specifications, or 2) implementation/execution errors, for which any immediate actions taken would be to return the facility to conditions described in the DSA. When the determination is made that the discrepant as-found condition can be fixed in three business days or less, the affected operations are restricted until actions are completed to restore compliance.

This contractor procedure and its NPO approval do not comply with the four fundamental elements of the USQ process as established by 10 CFR 830:

- The Pantex procedure restricts operations whereas 10 CFR 830 requires the contractor to place or maintain the facility in a safe condition.
- The Pantex procedure does not require DOE to be notified of the discrepancy and actions taken. As a result, CNS may operate the facility up to three days outside the DOE approved safety basis without DOE's formal knowledge of the situation.
- The Pantex procedure states that a PISA does not exist when a discrepant as-found condition can be resolved within three business days, whereas following 10 CFR 830 would result in a PISA followed by a USQ determination.
- The Pantex procedure does not require an evaluation of the safety of situation for submittal to DOE prior to removing the self-established operational restrictions, whereas 10 CFR 830 requires DOE's acknowledgement of the safety of the situation prior to the contractor removal of the operational restrictions.

During the discussions at the site, CNS and NPO personnel referred to an approval memorandum received from the NNSA Chief of Defense Nuclear Safety (CDNS) for application of the three-day grace period for not issuing a PISA. The CDNS memorandum [16], however, refers to conditions that involve defense in depth or other non-safety SSCs because those SSCs ''wouldn't have LCOs [limiting condition for operations] associated with them but will normally wear out, or may be non-conforming for some other reason.'' While the CDNS's concurrence with a situation that involves non-safety related controls may be justified, its extension by Pantex to

[15] CNS issued the JCO titled, *Justification for Continued Operations for Legacy Issues Associated with Documented Safety Analyses at Pantex,* on June 29, 2018.

[16] CNS has prepared, and NNSA has approved, a USQ procedure for the Y–12 National Security Complex that contains the same deficiency and inconsistency with the requirements of 10 CFR 830.

safety-related and TSR controls is not permitted by DOE requirements of 10 CFR 830.

Additionally, Appendix C to CNS's USQ procedure, CD–3014, describes the PIE process that is a precursor to identification and declaration of a PISA. As part of the PIE process an inquiry is made [17]: ''Does the situation indicate a directive action Specific Administrative Control (SAC) may not provide the safety function assigned to it within the DSA?'' If the answer is ''yes,'' a PISA is declared. The staff review team concludes that, consistent with DOE requirements, SACs perform a safety class or safety-significant function and are part of the TSRs of the facility. SACs should not be subject to the USQ or PISA process; however, the analysis that led to the derivation of the SAC may be subject to the USQ/PISA process if the analysis is found to be incorrect. Any change to a SAC in order to perform its intended safety function should be considered a TSR change, and DOE must approve it. 10 CFR 830.205, Technical Safety Requirements, mandates contractors to ''(2) Prior to use, obtain DOE approval of technical safety requirements and any change to technical safety requirements; and (3) Notify DOE of any violation of a technical safety requirement.'' This section of 10 CFR 830 is stand-alone and specific to the TSRs; it stands apart from the USQ process (*i.e.*, Section 203 of 10 CFR 830). As such, the staff team concludes that 10 CFR 830 requires a TSR violation to be directly reportable to DOE, and outside the USQ process.

An example of mishandling safety-related controls by using the USQ procedure CD–3014 occurred when a piece of safety-related electrical equipment failed testing in accordance with the in service inspection (ISI) requirement of the TSR for its commercial grade dedication. CNS issued a PISA on March 10, 2017, followed by a USQ determination [18], which CNS determined was negative and did not submit for DOE approval. The USQ determination stated that the piece of equipment credited was ''redundant'' and that CNS at a later date would provide DOE ''a change to Chapter 4 of the Sitewide SAR to delete [this piece], add [another piece of equipment] as a reference, and delete the ISI to inspect from the TSRs. . . . ''

DOE Guide 424.1–1B identifies that a failure of a safety-related control, identified in Chapter 4 of the DSA and part of the TSRs, would be reportable to DOE upon verification under a positive USQ determination. Revision of the associated TSR for the failed equipment and replacement by the new piece are required to be completed and approved by DOE before lifting operational restrictions, and not at some later date when the DSA or the Sitewide SAR is revised. The staff review team notes that CNS has not successfully revised the Pantex Sitewide SAR via an annual update since 2014, and DOE has not approved the changes CNS has proposed in the last three years (including the change described above). Consequently, discrepancies exist between the approved Sitewide SAR and its associated set of controls (*i.e.*, the failed equipment) and the contractor's set of controls relied on to support ongoing operations (*i.e.*, the redundant equipment).

8. Long Term JCOs—Some JCOs last for several years without updating the relevant safety basis document, relying on compensatory measures without implementing rigorous controls (*i.e.*, engineered design features). Section 7 of CD–3014 states that ''[t]he purpose of a JCO is to make a temporary (*i.e.,* less than one year) change to the facility safety basis that would allow the facility to continue operating. . . . '' This statement, however, is not codified to lead to closure of the JCOs within a certain period of time (*i.e.,* less than one year) or incorporate the open JCOs into the next annual update of the safety basis documents, as required by DOE.

Per 10 CFR 830.202, Safety Basis, the contractors are required to ''(1) [u]pdate the safety basis to keep it current, and to reflect changes to the facility, the work and the hazards as they are analyzed in the documented safety analysis. (2) Annually submit to DOE either the updated documented safety analysis for approval or a letter stating that there has been no change in the documented safety analysis since the prior submission.''

These requirements of 10 CFR 830 serve two purposes: (1) Consolidate all positive USQs and JCOs prepared during the year into one safety basis document for DOE approval and (2) ensure that compensatory measures, and thus less reliable controls, implemented for temporary changes resulting from the JCOs do not become the permanent control for hazards.

CNS applies the JCO process to temporary changes as reflected in CD–3014, and to allow deviations from approved safety basis documents. The latter application has resulted in JCOs extending over several years for multiple Pantex operations without CNS integrating them into the annual update of the safety bases. Consequently, CNS has relied heavily on compensatory measures for long periods of time while the JCOs are in effect [19–21].

9. Maintenance of the DSA—CNS has struggled to complete and obtain NPO approval of the yearly updates required by 10 CFR 830.202. Starting in 2015, NPO has not approved the annual updates CNS has submitted for the Sitewide SAR. In 2016, CNS was unable to meet the annual DSA update requirements for the Sitewide and Transportation SARs and the W76 and W78 HARs. As NPO rejected CNS's submittals, a backlog developed. This process culminated in three rejected submittals and five approvals total in 2017. Overall, this resulted in 11 of 16 SARs and HARs not being approved for annual updates in 2017. In particular, the Sitewide SAR has not been successfully updated and approved via the annual update process since 2014.

In lieu of completing the 2017 annual updates, CNS submitted, and NPO approved, a schedule to ''rework'' three previously submitted annual updates and catch up on the remainder with calendar year 2018 annual updates. If CNS successfully executes its plan to submit and obtain NPO approval of a full slate of 2018 annual updates, it will be back on course to meeting the DSA maintenance requirements.

10. Safety Basis Assessments—CNS has processes and procedures for performing management assessments and IVRs. The review team found sufficient evidence that management assessments of safety controls are being performed on a five-year schedule (*i.e.*, 20 percent per year). While a few assessments have been missed, the review team's analysis indicates that CNS is generally holding to that schedule.

However, CNS performs IVRs when there is a new TSR or a change to an existing TSR. DOE Guide 423.1–lB, Implementation Guide for Use in Developing Technical Safety Requirements, specifies that IVRs should be conducted every three years for controls susceptible to the degradation of human knowledge (*e.g.*, procedural controls) [22]. Therefore, CNS is not meeting the three-year guidance for re-verification of SACs. Furthermore, the review team's evaluation of the management assessments for SACs for the W76 and W78 indicated that these assessments rarely identify any strengths, weaknesses, findings, or observations. The Pantex DSAIP includes an effectiveness review for the management assessments, but CNS does not have a path forward to improve management assessments.

11. Action on Known Deficiencies—CNS currently is implementing a DSAIP to address several longstanding issues

with the Pantex safety bases [23]. The DSAIP has existed since 2013 and is currently in its fifth revision. CNS personnel informed the staff review team that there has been steady progress on a number of items contained in the fifth revision of the DSAIP. Of the three items scheduled for completion in calendar year 2017, CNS completed two. Seventeen items are scheduled for completion in 2018.

In addition, the DSAIP lacks detail. The plan is only a list of titles of activities with a targeted year for completion. It does not provide any detail of the scope and objectives for each task, the criteria that should be met for satisfactory execution, or the resources required for completion. While CNS representatives informed the staff review team that they understand the items listed and the tasks involved, the DSAIP does not include detail sufficient to allow verification of the accomplishments. Consequently, the staff team cannot independently verify that the plan is comprehensive, achievable, and on-track to meet the schedule for 2018 and beyond.

Over several iterations of the DSAIP, CNS has committed to working down a set of ''legacy'' COAs that existed prior to the creation of NPO. Originally, there were 40 COAs in this category, and 5 currently remain open. The current iteration of the DSAIP includes a task in fiscal year 2018 to develop metrics for tracking progress in resolving the remaining five COAs. Actual closure dates for the five remaining COAs currently are not identified in the schedule.

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Enclosure 1

Board Letter to the Secretary of Energy Dated October 17, 2018, Titled ''Pantex Plant Special Tooling Program Review''

The Honorable James Richard Perry
Secretary of Energy
U.S. Department of Energy
1000 Independence Avenue, SW
Washington, DC 20585–1000

Dear Secretary Perry:

In September 2017, the Defense Nuclear Facilities Safety Board reviewed the special tooling program at the Pantex Plant. We identified five deficiencies within the special tooling program: (1) application of the Special Tooling Design Manual, (2) weld quality and application of non-destructive evaluation techniques, (3) pedigree of preventive maintenance and in-service inspection programs, (4) performance criteria within safety basis documentation, and (5) special tooling loading conditions. These deficiencies continue to exist within the special tooling program. Further information on each is provided in the enclosure.

Yours truly,

Bruce Hamilton
Acting Chairman

Enclosure

c: Mr. Joe Olencz

Enclosure

Pantex Plant Special Tooling Program Review

This report details the deficiencies that the Defense Nuclear Facilities Safety Board's (Board) staff review team found within the special tooling program. Deficiencies exist in the application of the Pantex Plant (Pantex) Special Tooling Design Manual [1], assurance of weld quality and application of non-destructive evaluation (NDE) techniques, pedigree of preventive maintenance and in-service inspection (ISI) programs, utilization of performance criteria within safety basis documentation, and special tooling loading conditions. Based on these deficiencies, the National Nuclear Security Administration (NNSA) Production Office (NPO) and Consolidated Nuclear Security, LLC (CNS), have not demonstrated that the currently implemented process for design, fabrication, production usage, and maintenance of special tooling at Pantex assures that all special tooling can meet its required safety-related functions.

Background. Pantex utilizes special tooling to support and manipulate nuclear explosive components during operations at the plant. Special tooling functions as a passive design feature managed through the special tooling program, and is credited within the Pantex safety basis to meet minimum factors of safety. Adherence to these design criteria assures special tooling does not fail during normal and abnormal loading conditions. Failure of special tooling to meet its credited safety functions could lead to impacts to sensitive components of the nuclear explosive (*e.g.,* dropping of unit or

equipment impacts onto the unit), potentially resulting in high order consequence events. The requirements for the special tooling program are identified in the NPO-approved Pantex Sitewide Safety Analysis Report [2], and specifics are flowed down into the contractor-established Special Tooling Design Manual, the General Requirements for Tooling Fabrication & Inspection [3], and the Special Tooling Operations [4] manual.

During the onsite review and follow-up teleconference, the staff review team evaluated various aspects of the Pantex special tooling program, including safety basis integration; flow down of functional requirements; technical support documentation and analyses; preventive maintenance and ISI of special tooling; quality assurance requirements and processes; and corrective actions resulting from nuclear explosive safety (NES) evaluations, the CNS Special Tooling Top-Down Review [5], and the 2015 NPO Special Tooling Assessment [6].

The staff review team evaluated the special tooling program and its ability to ensure that credited pieces of special tooling are adequately designed, fabricated, and inspected, ensuring their ability to perform safety significant and/or safety class functions. During this review, the staff review team evaluated more than 75 special tooling designs, including a vertical slice of special tooling for the B61 program and a horizontal slice of common special tooling designs across weapon programs (*e.g.,* vacuum lifting fixtures, lifting and rotating fixtures, and workstands). Evaluation of the B61 special tooling allowed the staff review team to examine some of the oldest and newest tooling designs that are currently authorized for use. The staff review team noted deficiencies, opportunities for improvement, and noteworthy practices, which will be described in further detail in the remainder of this report.

Content and Application of Special Tooling Design Manual. No consensus or industry standards currently govern the design, fabrication, inspection, and maintenance of special tooling, including factors of safety, weld inspections, and quality assurance practices. Because there are no standards specifically applicable to these aspects of special tooling, the guidance and requirements provided in the Special Tooling Design Manual frequently do not have documented or cited bases.

Deviations from Manual Guidance—The staff review team identified multiple instances where Pantex did not meet the requirements and guidance in the Special Tooling Design Manual. For example, Pantex currently does not perform NDE for special tooling welds with low factors of safety, which appears to be in direct conflict with the Special Tooling Design Manual (see following sections). In addition, the Special Tooling Design Manual specifies a minimum of 3:1 factor of safety to yield or 5:1 factor of safety to ultimate strength, as well as the 1.25:1 factor of safety to yield for rare events (*i.e.,* seismic or falling man loads). The staff review team noted instances in which tooling does not meet the minimum factors of safety specified in the Special Tooling Design Manual:

- Workstand (061–2–0815) pieces 64 and 65 did not meet the 1.25:1 factor of safety at yield for rare events.
- Penetrator case sleeve (061–2–0738) did not meet the 3:1 factor of safety at yield.
- Assembly press (061–2–0841) did not meet the 3:1 factor of safety at yield.

Pantex personnel stated that designs that deviate from the Special Tooling Design Manual only require the same approval process as those designs adhering to the manual. As the Special Tooling Design Manual provides the means to satisfy the programmatic requirements set forth in the Sitewide Safety Analysis Report, the staff review team suggests elevating deviations for additional review and approval beyond the typical process.

Ambiguous Guidance—The Special Tooling Design Manual contains imprecise guidance and requirements allowing for multiple interpretations of certain sections. This has the unintended consequence of allowing deviations when implementing the manual. For instance, the section on weld inspection requirements recommends NDE for welds with a factor of safety less than 10:1 [1]. However, the manual does not clarify whether this is a factor of safety to ultimate or yield strength, and does not specify whether this stress analysis must be done for both yield and ultimate strength. The staff review noted instances in which Pantex personnel did not implement special tooling NDE because there was no analysis of the factor of safety to ultimate strength. Similarly, the special tooling engineer has latitude to evaluate for either 3:1 at yield or 5:1 at ultimate strength for normal loads at his or her discretion.

Basis for Rare Events Factors of Safety—The staff review team identified a concern with the minimum factors of safety for rare events, as recommended in the Special Tooling Design Manual. The choice of factors of safety for rare events (1.25:1 at yield strength and 1.5:1 at ultimate strength) does not represent the level of uncertainty in the tooling construction and abnormal loading parameters. For instance, welds in special tooling are currently not subject to NDE beyond visual inspection. The lack of NDE of welds introduces uncertainty regarding the material properties of special tooling. Moreover, as discussed in the 2013 Approved Equipment Program Volume II NES Master Study (AEP Vol. II NESMS) [7], factors of safety from 1.25 to 1.5 are typically used in weight-sensitive applications and are appropriate only if there is a strong degree of certainty in the material properties, loads, and resultant stresses. The special tooling program does not include measures to provide additional assurance for the performance of tooling with low factors of safety, such as load testing to failure or higher maintenance frequency.

The closure package that Pantex submitted for the 2013 AEP Vol. II NESMS finding ''Factor of Safety for Special Tooling Rare Event Analysis'' discusses the level of uncertainty present in design and materials for special tooling. However, the closure package focuses on several key areas where uncertainty may be present without comprehensively analyzing all sources of uncertainty and variability in design, fabrication, and operation of special tooling [8]. For instance, weld quality, lack of in-house material certification, and damage (including material fatigue, wear, and handling damage) during operations may all introduce uncertainty and variability in performance. Moreover, the closure package provides only a qualitative assessment of uncertainty in the determination of factors of safety, and does not present a quantitative uncertainty analysis to demonstrate that the safety margins for rare event loading are appropriate.

Special Tooling Design–Ductile Versus Non-Ductile Systems—Due in part to the perceived low frequency of seismic events and falling man events—assumed to be analogous to seismic events in the Special Tooling Design Manual—Pantex employs less conservative factors of safety for rare event loads. Factors of safety for rare event loading are developed in the Technical Basis for Safety Factors [9], which supports the Special Tooling Design Manual and Special Tooling Seismic Analysis [10]. This technical basis document states that ''criteria for tooling design packages are equivalent or more conservative'' [9] than DOE Standard 1020–2002, Natural Phenomena Hazards Design and

Evaluation Criteria for Department of Energy Facilities [11]. Part of this justification specifically focuses on not crediting the ability to use energy absorption factors to reduce seismic loads for ductile structural systems similar to building structures.

While the justification for rare event load paths states that ductile systems will use the factor of safety of 1.25:1 to yield, and non-ductile systems will use a 1.5:1 factor of safety to ultimate strength, there is no guidance in the Special Tooling Design Manual for what is classified as ductile behavior or materials to avoid in the design of ductile systems. The manual also does not incorporate the principles of capacity-based design or overstrength of critical elements of a load path that consensus seismic standards use. Furthermore, the Special Tooling Materials Database [12] employed by special tooling engineers contains examples of permitted materials with little or no ductility, such as plastics and high-performance alloys (where yield and ultimate strength can be within a few percent of each other). Without guidance for determining when systems can be considered ductile, special tooling engineers determine independently which safety factor should be used as an acceptance criterion and which materials are suitable for tooling subject to rare event loads. This use of engineering judgement could lead to variability in selected factors of safety and potentially result in a non-conservative special tooling design.

Special Tooling Design–Failure Probability—The ultimate goal of seismic design methods that meet DOE Standard 1020 is to achieve a certain probabilistic performance for structures, systems, and components (SSC). An SSC designed for PC–3 design loads using this standard has an input ground motion with an annual probability of exceedance of 4×10^{-4} but is designed with enough margin to have an annual probability of failure of less than 10^{-4}. In order to meet this performance, consensus standards such as American Society of Civil Engineers Standard 43–05, Seismic Design Criteria for Structures, Systems, and Components in Nuclear Facilities [13], restrict certain types of materials, designs, or analysis techniques to ensure adequate ductility and quality. Lower performance SSCs, in turn, have smaller input forces and higher annual probabilities of failure, and are permitted to use less rigorous design methods and employ a wider variety of materials or structural types. The Special Tooling Design Manual, however, does not incorporate these principles, relying entirely on its rare event loading factors of safety.

Neither the Special Tooling Design Manual nor the Special Tooling Seismic Analysis address how the 10^{-4} annual probability of failure expected of PC–3 SSCs is ensured through their selection of safety factors. DOE Standard 1020 ensures this performance through the use of consensus standards built around estimates of SSCs' statistical margin to failure. Because special tooling is a class of custom-made design features, there is not the same statistical basis for their beyond design basis performance like other SSCs that DOE Standard 1020 was meant to address. Typically for seismic design, the approach to non-standard designs or structures is to *not* credit ductility and use the most conservative design factors to bound the uncertainty in a structure's beyond design basis performance, or to use overstrength factors to ensure the controlling failure modes are well-understood, ductile failures [14].

During the 2013 AEP Vol. II NESMS, a NES Study Group evaluated Pantex's special tooling program and noted this issue in a statistical analysis of performance for special tooling under rare-event loads. As described in section 3.3.2 of the Master Study report, the NES Study Group highlighted that probabilistic margin requires understanding not just the deterministic safety factors of the special tooling, but the hazard curves that determine the probability of exceedance for various intensities of ground motion [7]. In order to have sufficient design margin, the overstrength of special tooling (defined in this case by its factor of safety) has to be combined with the probability of both design basis and beyond design basis ground motions, as well as uncertainties in these two values. The NES Study Group also observed that factors of safety this low are normally associated with designs with high degrees of certainty in not just design and fabrication, but operating environment, rather than abnormal conditions such as a falling man or seismic event.

Pantex developed a white paper justifying its rare event loading approach that was formalized into the submitted closure package for the 2013 AEP Vol. II NESMS finding ''Factor of Safety for Special Tooling Rare Event Analysis,'' and documented within the Special Tooling Design Manual [8]. The closure package qualitatively states that the conservative design practices, low probability of earthquakes, known material properties and operational environment for tooling, and the maintenance of special tooling create a conservative framework for use of these safety factors. In addition, this closure package states that ''loads and resultant stresses are known with a high degree of certainty'' [8] citing the Special Tooling Seismic Analysis. However, this document provides only a high-level discussion and does not cite a probabilistic goal for tooling performance, relying instead on the tooling program as a whole to provide sufficient performance. The high degree of certainty in the demands to which tools are evaluated does not translate to low variability of potential seismic demands. There is no quantitative basis that the safety factors and other aspects of the special tooling program provide seismic margins comparable to equivalent safety SSCs.

Weld Quality and NDE of Welds. The Special Tooling Design Manual requires NDE of welds for the fabrication or modification of tooling in high-stress applications with factors of safety less than 10:1. Pantex personnel do not implement NDE beyond visual inspections done by a qualified weld inspector. However, per the Metals Handbook Volume 10, Failure Analysis and Prevention [15], while visual inspection can identify visible features such as cracks, weld mismatch, and bead convexity or concavity, the following subsurface features would not be identified through visual inspection, but may be identified through additional NDE: Underbead crack, gas porosity, inclusions (slags, oxides, or tungsten impurities), incomplete fusion, and inadequate penetration. These subsurface features can result in a weld with lower strength or ductility. During the review, the staff review team identified three concerns:

- *Weld Performance*—As discussed previously and shown in Table 1 of Appendix A, the Special Tooling Design Manual specifies a minimum factor of safety to yield strength of 1.25:1 and a factor of safety to ultimate strength of 1.5:1 for rare event loadings, such as seismic and falling man loads. Special tooling engineers do not consider any reduction of weld performance due to poor weld quality through either joint efficiency factors (per American Society of Mechanical Engineers (ASME) Boiler and Pressure Vessel Code Section VIII [16] and American Petroleum Institute Standard 653 [17]) or more conservative safety factors (such as phi-factors used for American Institute of Steel Constructors (AISC) 360–10, Specification for Structural Steel Buildings [18]). Due to the low minimum factors of safety allowed by the Special Tooling Design Manual for rare event scenarios, a reduction in weld

performance may challenge the special tooling's ability to perform its credited safety function. For example, ASME Boiler and Pressure Vessel Code Section VIII assumes a joint efficiency factor of 0.7 for a double welded butt joint without radiography or equivalent NDE. Applying the 0.7 joint efficiency factor to tooling designed to the minimum 1.25:1 factor of safety to yield strength (for rare event loading) results in a factor of safety of 0.875:1. Thus the tooling would be expected to yield during rare event loading.

• *Plastic Deformation*—There are instances where special tooling is anticipated to deform plastically in the course of meeting its design function during abnormal events (*i.e.*, a deflection limit for dynamic load), rather than meeting more conservative factors of safety specified in the Special Tooling Design Manual. In cases of plastically deforming structures, higher weld quality and performance are necessary to ensure the structure performs as expected, as exemplified by demand-critical welds defined in AISC 341–10, Seismic Provisions for Structural Steel Buildings [14]. However, Pantex personnel do not perform NDE of welds subject to plastic deformation, such as the W76 swing arm (000–2–0831). Upon a dynamic impact, the W76 swing arm is credited to deform no more than a certain distance vertically, such that the unit underneath will not be impacted. Without NDE verification of weld integrity, Pantex cannot ensure that such special tooling will meet its safety critical design function.

• *Vendor Quality Issues*—Pantex personnel provided the staff review team with vendor performance reports for past and present special tooling vendors [19]. The staff review team noted that several of these reports included instances of receipt refusal of procured tooling due to weld quality issues. Pantex personnel identified these quality issues during receipt quality control visual inspections. The staff review team noted that due to the nature of weld quality issues (*e.g.*, weld penetration depth, heat-affected areas, pores, cracks, inclusions), visually identified weld quality issues could indicate the presence of additional weld quality concerns that cannot be identified through visual inspection alone, and may go undetected.

As part of the submitted closure package for the 2013 AEP Vol. II NESMS finding ''Preventative Maintenance,'' Pantex personnel included additional information in the Special Tooling Design Manual detailing different types of NDE [20]. While this information includes the advantages and limitations of different techniques, it does not specify any NDE requirements, and thus does not address the concerns noted above.

Pedigree of Special Tooling Preventive Maintenance and ISIs. The staff review team noted three methods that Pantex used to ensure that special tooling—credited design features in the safety basis—can continue to meet its safety functions throughout its time in service: (1) As-built designs (*e.g.*, inherently conductive special tooling fabricated out of stainless steel), (2) production technician inspections for damage prior to use, and (3) special tooling preventive maintenance and ISIs.

Based on observed preventive maintenance activities and subsequent discussions, the special tooling preventive maintenance and ISI programs lack the rigor expected for maintenance on and inspection of equipment with safety class and/or safety significant functions. For instance, in contrast to other safety-related SSCs, preventive maintenance and ISIs on special tooling are not performed per detailed written procedures. As a specific example of maintenance performed with sufficient rigor, during review of the maintenance and cognizant system engineering programs at Pantex in December 2017, the Board's staff observed preventive maintenance of ESD flooring—a design feature—in two nuclear explosive facilities. Workers conducted the preventive maintenance according to a detailed, written procedure (*i.e.*, Technical Procedure TP–MN–06291, ESD Flooring Resistance Measurements, Annual, Plant [21]) and with an appropriate level-of-use (*e.g.*, reader-worker practices). In contrast, the staff review team observed that for special tooling maintenance, Pantex relies heavily on worker knowledge and the skill of the craft to meet specifications that the special tooling engineer provides in the supporting data sheets. This practice could compromise the reproducibility of test results and prevent reliable testing of important features, given the potential variability in results.

Performance Criteria Assurance. The performance criteria for meeting the functional requirements for safety class and/or safety significant special tooling are absent from the safety basis and reside in supporting documents (*i.e.*, design requirements documents, supporting data sheets, and analyses). Although the requirements for the special tooling program are governed by the NPO-approved Sitewide Safety Analysis Report, the performance criteria for program-specific special tooling are neither within Pantex safety basis documentation nor reviewed and approved by NPO. DOE Standard 3009–1994, Change Notice 3, Preparation Guide for U.S. Department of Energy Nonreactor Nuclear Facility Documented Safety Analyses, delineates expectations that the safety basis chapter on SSCs include ''[i]dentification of the performance criteria necessary to provide reasonable assurance that the functional requirements will be met'' [22]. The lack of NPO approval of the specific performance criteria conflicts with DOE Standard 3009–1994 expectations.

Special Tooling Loading Conditions. During its review, the staff review team noted the following deficiencies regarding special tooling loading conditions:

W76 Swing Arm—Pantex relies on the test results of a single (prototype) W76 swing arm [23] to validate that it will perform its safety basis function under analyzed loads. The staff review team identified several concerns with this testing, including the following:

• The test assessed whether the swing arm would perform its safety function in the case of dynamic loading (*i.e.*, the special tooling would vertically deflect less than a certain distance during an impact scenario). However, Pantex performed only a single test, and Pantex personnel informed the staff review team that it was not performed with a high quality pedigree, such as in accordance with the quality assurance requirements of ASME NQA–1, Quality Assurance Requirements for Nuclear Facility Applications [24]. When coupled with the weld quality concerns and weld manufacturing variances noted above, it is unclear to the staff review team how Pantex can ensure that all swing arm copies will be able to perform their safety functions during an impact scenario (*i.e.*, they will not deflect beyond the specified limit and potentially impact the unit).

• The staff review team identified an additional falling man scenario with the W76 swing arm that Pantex had not previously analyzed. As this impact scenario applies a load on a longer lever arm, there exists the possibility for a larger deflection of the swing arm than previously postulated, which would potentially defeat its safety function. Pantex personnel stated that they do not consider the scenario to be credible. However, the staff review team contends that during transient movements of the swing arm, production technicians have a direct pathway to apply load on the longer lever arm.

Falling Man Rare Event Loading—The staff review team noted non-conservative assumptions regarding placement and distribution of falling man rare event loading. Per the reviewed analyses, special tooling engineers typically apply the falling man loading to the center of gravity of the components supported by special tooling. This usually results in a symmetric distribution of loads. The staff review team questioned the appropriateness of this approach, postulating that it may be more conservative and bounding to assume an uneven distribution of loads, such as primarily loading one beam of a two-beam system rather than applying equal loading across both beams.

Specifically, for the B61 program, the staff review team identified non-conservative assumptions with the placement and distribution of falling man rare event loads involving a configuration between the support beam (061–2–0730) and support and alignment fixture (061–2–0860). In this configuration, the staff review team noted that falling man horizontal loads could impart a torsional load component to the support beam that Pantex had not analyzed. While this may be a robust piece of special tooling with respect to vertical loading, Pantex did not evaluate the factor of safety for torsional load. As justification, special tooling engineers noted that the angles from which production technicians can approach this configuration preclude this torsional loading. However, nuclear explosive operating procedures do not restrict approach angles to protect this assumption, and subsequent staff review team observations of B61 nuclear explosive operations revealed that a falling production technician *could* approach at the angles of concern and could impact this configuration to generate out-of-plane loadings not currently evaluated.

Loss of Special Tooling Design Function during Impacts—Functional requirements for special tooling include factors of safety based on static loading conditions. However, as observed during falling man studies performed at Virginia Polytechnic Institute and State University [25], special tooling, such as tooling employing a banjo plate configuration, had considerable elastic deformation during certain dynamic impact scenarios. Pantex does not typically consider how deformations under loading could render the special tooling incapable of performing its safety function throughout the loading cycle (*e.g.*, a holding fixture deforming under impact and allowing a held component to be dropped).

Opportunities for Improvement. The staff review team identified several opportunities for improvement in the special tooling program.

• *Periodic Reevaluation of Analyses*—The staff review team noted that there currently is no requirement or guidance to Pantex personnel that requires the periodic reevaluation of special tooling engineering analyses. Such a program would allow opportunities for Pantex to self-identify incomplete or deficient conclusions, bolster the analysis methodology to include modern methods (*e.g.*, finite element analysis software), and provide additional assurance in the conclusions of the special tooling analysis.

• *NES Study Concerns*—NNSA does not currently have near-term plans to redesign or upgrade B61, W76, and W87 special tooling to address outstanding NES Study concerns, including reducing the size of gas cylinder carts to eliminate/minimize hazards and discontinuing an electrical tester cart (*i.e.*, for the PT3746) that is susceptible to toppling. NES Study Groups have identified aspects of special tooling associated with these weapon programs that do not meet the intent of Seamless Safety for the 21st Century, including the W76 program's continued use of a swing arm and the absence of an engineered control for potentially cracked high explosive and unnecessary unit lifts on the W87 program. Furthermore, the staff review team noted that when a NES Study Group identifies potential deficiencies in the special tooling design or implementation on one weapon program (*e.g.*, elimination of a similar swing arm on the W78 program by introduction of a transfer cart), NNSA and the Pantex contractor do not consistently address the deficiency on other applicable weapon programs.

• *Validation Testing*—The staff review team identified that Pantex only performs limited testing of special tooling to validate engineering calculations. For example, the first destructive test of a piece of special tooling (*i.e.*, the B61 support beam) was conducted in July 2017. This destructive test was used to confirm the conclusions of the associated engineering analysis. In case of special tooling with factors of safety lower than required by the Special Tooling Design Manual, additional testing would be valuable to eliminate uncertainty regarding whether the tooling will perform its design function.

• *Safety Catches*—The staff review team evaluated the use of W76 vacuum lifting fixtures and the 2015 issue in which cracks were identified in vacuum lifting fixture safety catches (see Figure 1). The safety catches are a secondary feature to prevent a drop of high explosive charges should vacuum fail on the lifting fixture. The staff review team is concerned that actions taken to-date may not prevent recurrence of cracking of safety catches. Pantex continues to rely on production technicians to identify cracking during routine prior-to-use inspections. The staff review team believes that application of an ISI or introduction of a specific step within the nuclear explosive operating procedure to check for safety catch damage prior to use would bolster the reliability of this check. Alternatively, the safety catches could be redesigned, substituting a material with a lower likelihood of cracking (*e.g.*, appropriately coated metal).

Figure 1. Cracked Safety Catches in the W76 Aft Disassembly Fixture, 076–2–0382 [26].

• *Special Tooling Acceptance Process*—As discussed onsite, in one instance, Pantex delivered an incorrectly fabricated W88 lifting and rotating fixture (088–2–0377) to production for use, and technicians subsequently installed it in the facility and began operations. On this specific piece of special tooling, a component used to mate the tooling to the stand was out-of-tolerance. The component is designed with a slight bend; however, the bend angle was out-of-tolerance by approximately 10 degrees, preventing the component from interfacing properly with other special tooling during the operation. The bend angle is neither part of the receipt inspection for subcontracted tooling (as a recordable feature), nor part of the quality assurance inspections required before the tooling is released for production use. A NES Change Evaluation was ultimately required to authorize the use of a temporary procedure to remove the special tooling and continue operations. In light of this occurrence and other instances of special tooling used without all necessary reviews and approvals [27], the staff review team encourages improvements to the special tooling acceptance process.

Noteworthy Practices and Updates. The staff review team identified a number of noteworthy practices that Pantex has implemented that contribute to the improvement of the overall safety posture of special tooling program. In addition, the staff review team noted several ongoing initiatives.

Noteworthy Practices—The staff review team noted several practices that contribute to the safety posture of the special tooling program.

• Sharing Lessons Learned. Pantex has established methods for sharing lessons learned among special tooling engineers (*e.g.,* use of ''Design Tips'' documentation). The staff review team specifically noted an example with the B61 presray plate (061–2–0761). Given incidents with this special tooling (*e.g.,* loss of air pressure due to intrusion of foreign material through the supply air), Pantex took appropriate actions to apply in-line air filters to all special tooling requiring air pressure to perform its required functions.

• Quality Assurance Consensus Standard Implementation. As part of its 2016 approval of the combined Y–12 and Pantex Quality Assurance Program Description [28], NPO required Pantex to apply the quality assurance requirements of NQA–1 to the special tooling program [24, 29]. Historically, special tooling quality assurance has been governed by the NNSA Weapon Quality Policy (*i.e.,* NAP–24), which establishes specific weapon and weapon-related product-focused quality requirements for designing, producing, and surveilling weapon products.

As part of its extent of condition review, Pantex identified a large number (between 5,000 and 10,000) of special tooling designs that will require additional evidence to meet the commercial grade dedication requirements of NQA–1. Pantex is conducting a pilot study on six pieces of special tooling in order to inform NPO of the potential cost and timeframe for complete implementation of NQA–1 for special tooling. The tooling selected for the pilot study includes an assembly cart (000–2–1230), W76 lifting & rotating fixture (076–2–0365), assembly stand (000–2–0832), and a B83 vacuum fixture (083–2–0460).

• Supplier Quality Control Improvements. The staff review team identified some noteworthy practices by Pantex Supplier Quality. First, Pantex uses a risk-informed process to determine whether a given supplier requires additional Pantex oversight to ensure that the special tooling received from the supplier meets Pantex quality requirements. The staff review team notes that these risk-based surveillances occur in addition to the triennial Pantex re-evaluation. Second, Pantex has developed a Supplier Quality Handbook for Special Tooling Suppliers [30] that will help inform special tooling suppliers of many of the pitfalls encountered by Supplier Quality. Third, Pantex has demonstrated its willingness to remove suppliers who are routinely at risk from the Qualified and Approved Suppliers List until the supplier demonstrates compliance with Pantex Supplier Quality requirements.

Ongoing Initiatives—Pantex plans to make improvements to the Special Tooling Design Manual, as well as special tooling engineering analyses, including the following:

• Clarification of Design Manual. Pantex has revised the Special Tooling Design Manual to include clarifications and additional language to provide guidance on factors-of-safety requirements for special tooling and the use of backup features with friction-based special tooling. However, Pantex has not provided sufficient additional guidance for factors of safety for press assemblies. Pantex has clarified that either the factor of safety of 3:1 at yield or 5:1 at ultimate strength can be used in analysis, but does not provide guidance on the appropriateness of one value or the other.

• Guidance for Deviations from Design Manual. Pantex has updated the Special Tooling Design Manual to provide additional guidance regarding the approval process for special tooling designs that deviate from manual requirements. However, the approval process for deviations from the design manual does not require elevation beyond the normal approval chain.

• Engineering Mentors. Pantex has updated the Special Tooling Design Manual to implement a mentor system, in which senior special tooling engineers will be tasked with providing clarification and improvements to the design manual.

• Updates to Special Tooling Analyses. Pantex is updating several special tooling engineering analyses that were discussed during the staff review team's onsite review (*e.g.,* the W76 swing arm (000–2–0831), B83 belly band (083–2–0476), W87 primary lifting fixture (087–2–0400), and B61 penetrator case sleeve (061–2–0738) analyses).

Specifically for the W76 swing arm, the staff review team questioned whether the single dynamic loading test would bound the impact of a falling man scenario, as was indicated in the W76 Hazard Analysis Report [31]. Pantex personnel have updated the tooling analysis to defend its safety basis assumption that dynamic testing bounds the falling man scenario. Pantex personnel have updated their swing arm calculation to demonstrate that forces from the test exceed the current falling man load.

Appendix A

Special Tooling Safety Factors

The Special Tooling Design Manual presents factors of safety for custom special tooling within the anticipated load paths. These values do not apply to off-the-shelf components, such as casters or pressurized tubing. Non-pressurized off-the-shelf components are held to a factor of safety of 1:1 to working load or 5:1 to vendor-stated failure load. Pressurized off-the-shelf components are held to a factor of safety of 1:1 to working load or 4:1 to vendor-stated burst pressure. In addition, the Special Tooling Design Manual includes minimum factors of safety for several other types of special tooling, such as systems relying on vacuum or acting to restrain compressed air hoses; however, these are not discussed further in this report.

The factors of safety most relevant to this report are stated below:

TABLE A–1—FACTOR OF SAFETY REQUIREMENTS FOR CUSTOM SPECIAL TOOLING COMPONENTS [1]

Design case	To yield strength		To ultimate strength
Minimum allowable design factors of safety for normal loading (*e.g.,* weight of components, anticipated pressures) [17]	3:1	or	5:1
Minimum allowable design factors of safety for rare events (falling man and seismic)	1.25:1	or	1.5:1
Minimum factor of safety that does not require non-destructive evaluation of welds	N/A		10:1 [18]

Of note, special tooling does not require redundancy of load path elements in design [1]. As noted in the report, based on analyses reviewed by the staff review team, special tooling engineers typically apply the loading to the center of gravity of the components supported by special tooling. This usually results in a symmetric distribution of loads.

References

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[6] National Nuclear Security Administration Production Office, Assessment Results for the Independent Assessment of the Special Tooling Program, December 22, 2015.

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[11] Department of Energy Standard 1020, Natural Phenomena Hazards Design and Evaluation Criteria for Department of Energy Facilities, January 2002.

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[13] American Society of Civil Engineers (ASCE) 43–05, Seismic Design Criteria for Structures, Systems, and Components in Nuclear Facilities, 2005.

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[22] Department of Energy Standard 3009–1994, Preparation Guide for U.S. Department of Energy Nonreactor Nuclear Facility Documented Safety Analyses, Change Notice 3, March 2006.

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[24] American Society of Mechanical Engineers, NQA–1, Quality Assurance Requirements for Nuclear Facility Applications, March 14, 2008.

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[27] ''Unanalyzed Special Tooling approved for Production Use,'' Department of Energy Occurrence Reporting and Processing System, NA—NPO–CNS–PANTEX–2017–0087, November 30, 2017.

[28] Consolidated Nuclear Security, LLC, Quality Assurance Program Description, June 21, 2016.

[29] L.R. Bauer, Consolidated Nuclear Security, LLC, Response to NPO Comments on Quality Assurance Program Description, May 9, 2017.

[30] Consolidated Nuclear Security, LLC, Supplier Quality Handbook for Special Tooling Suppliers, Issue 1.

[31] Consolidated Nuclear Security, LLC, W76 Hazard Analysis Report (U), RPT–HAR–255023, Revisions 67 and 70.

[17] Pantex personnel do not currently apply these minimum factor of safety requirements to special tooling that includes high-pressure press components; Pantex personnel plan to update the Special Tooling Design Manual to reflect slightly less conservative factor of safety requirements for this special tooling type.

[18] The current revision of the Special Tooling Design Manual does not state whether this factor of safety requirement is to yield strength or to ultimate strength; Pantex personnel indicated that it is intended to be to ultimate strength.

Correspondence With the Secretary of Energy

December 27, 2018
The Honorable Bruce Hamilton
Chairman
Defense Nuclear Facilities Safety Board
625 Indiana Avenue NW, Suite 700
Washington, DC 20004

Dear Chairman Hamilton:

The Department of Energy (Department) received the Defense Nuclear Facilities Safety Board (DNFSB or Board) Draft Recommendation 2018-1, Uncontrolled Hazard Scenarios and JO CFR 830 Implementation at the Pantex Plant, on November 29, 2018. In accordance with 42 U.S.C. § 2286d(a)(2), the Department requests a 30-day extension to provide comments. Lisa E. Gordon-Hagerty, the Department's Under Secretary for Nuclear Security, will provide the response to the DNFSB by January 28, 2019.

The Department is committed to addressing safety basis deficiencies at the Pantex Plant. As you may be awai·e, the Department has already taken action and continues to monitor closely the completion of actions to address identified concerns. As pait of its efforts, the Department has also taken into consideration information from the two DNFSB Staff Issue reports regarding these safety basis deficiencies. Since the Draft Recommendation presents a complex and extensive discussion of safety documents at Pantex, a 30-day extension is necessary to afford the Department sufficient time to assess the Draft Recommendation's findings, suppo1ting data, and analyses.

If you have any questions, please contact Mr. Geoffrey Beausoleil, Manager of the National Nuclear Security Administration Production Office, at (806) 573-3148 or (865) 576-0752.

Sincerely,
Rick Perry

December 28, 2018
The Honorable James Richard Perry
Secretary of Energy
U.S. Department of Energy
1000 Independence Avenue, SW
Washington, DC 20585-1000

Dear Secretary Perry:

The Defense Nuclear Facilities Safety Board (Board) is in receipt of your December 27, 2018, letter requesting a 30-day extension to provide comments on the Board's Draft Recommendation 2018-1, Uncontrolled Hazard Scenarios and 10 CFR 830 Implementation at the Pantex Plant.

In accordance with 42 U.S.C. 2286d(a)(2), the Board is granting the extension for an additional 30 days.

Yours truly,
Bruce Hamilton

January 28, 2019
The Honorable Bruce Hamilton
Chairman
Defense Nuclear Facilities Safety Board
625 Indiana Avenue NW, Suite 700
Washington, DC 20004

Dear Chairman Hamilton:
On behalf of the Secretary, thank you for the opportunity to review Defense Nuclear Facilities Safety Board (Board) Draft Recommendation 2018-1, Uncontrolled Hazard Scenarios and 10 CFR 830 Implementation at the Pan/ex Plan/. We appreciate the Board's perspective and look forward to continued positive interactions with you and your staff on this important matter. The Department of Energy's National Nuclear Security Administration (DOE/NNSA) agrees that continuing actions are needed to further improve the content, configuration management, and implementation of the safety basis for nuclear explosive operations at the Pantex Plant (Pantex). While there are opportunities for improvement, DOE/NNSA believes that the current safety controls implemented at Pantex provide adequate protection of public health and safety. DOE/NNSA acknowledges that legacy issues exist within the current Pantex documented safety analyses. The enclosed summary outlines a number of actions initiated by DOE/1\TNSA during the past year to scope and prioritize the identified and necessary improvements. We believe these actions address the primary concerns raised in the Board's Draft Recommendation.
Given the importance of these efforts, I have also requested DOE·s Office of Enterprise Assessments periodically assess the progress DOE/NNSA is making in this area. The first two assessments have been scheduled for the third and fourth quaiters of fiscal year 2019. In addition, DOE/NNSA would appreciate the opportunity to provide the Board with a detailed briefing on the improvement actions taken in 2018 and planned for 2019. If you have ai1y questions, please contact me or Mr. Geoffrey Beausoleil, Manager of the NNSA Production Office, at 865-576-0752.
Sincerely,
Lisa E. Gordon-Hagerty

Enclosure - Comments on Draft DNFSB Recommendation 2018-1, Uncontrolled Hazard Scenarios and 10 CFR 830 Implementation at the Pantex Plant

General Comments

Throughout last year, and more intensely during the second half of the year, the Department of Energy's National Nuclear Security Administration (DOE/NNSA and CNS (Pantex)) have taken numerous actions aimed at improving the quality, configuration management, and implementation of the Pantex Plant (Pantex) safety basis. Key actions during this period include the following:

- In September 2018, DOE/NNSA approved a Safety Basis Supplement (SBS) by CNS that fulfilled two primary objectives. First, the SBS provides a framework for analyzing and addressing legacy issues in the Pantex safety basis associated with scenarios previously determined not to require application of safety controls because they were evaluated to be ''sufficiently unlikely.'' Requirements have been established to assure ''sufficiently unlikely'' scenarios are identified and resolved. Second, the SBS included significant improvements in safety protocols through the identification of compensatory measures for preventing events that could result from ''Falling Man'' scenarios. As of December 20, 2018, CNS has implemented the new 'Falling Man' compensatory measures in all active nuclear explosive cells. Implementation of the new 'Falling Man' compensatory measures in active nuclear explosive bays is expected to be completed by February 28, 2019.
- In October 2018, DOE/NNSA initiated a project to identify options for ''redesigning'' the Pantex safety basis, with the goal of reducing the complexity of the safety basis documents, simplifying development and maintenance of the documents, and correspondingly improving implementation of the identified safety controls. Members of this project team include representatives from DOE/NNSA, the production plants, the national laboratories, and the Nevada National Security Site. This initiative will take substantial effort to achieve, but is essential for ensuring the long-term success of the Pantex national security mission.
- In November 2018, DOE/NNSA approved a comprehensive Corrective Action Plan by CNS that includes numerous actions for improving the Pantex safety basis development process and addressing legacy weaknesses in the current documents. Execution of this plan will drive significant improvement in the overall quality of the Pantex safety basis within the next two years. To date, CNS has completed all actions on schedule.

Several elements of the DNFSB's Draft Recommendation arise from inconsistencies between long-standing Pantex practices and DOE guidance documents. Examples include DNFSB concerns related to the structure of the Pantex Unreviewed Safety Question (USQ) procedure, the longevity of some Justifications for Continued Operations, and the frequency within which safety control implementation is re-verified. By definition, the referenced DOE Guides (*e.g.,* DOE Guide 423.1–lB, Implementation Guide for Use in Developing Technical Safety Requirements and DOE Guide 424.1–1B, Implementation Guide for Use in Addressing Unreviewed Safety Question Requirements) provide supplemental information that DOE/NNSA uses to encourage performance of operations and activities across the complex with a focus on best practices. Similarly, several of the concerns in the DNFSB's Draft Recommendation related to Special Tooling are understood to be suggestions to adopt industry best practices rather than reflecting deficiencies against DOE regulations or requirements. DOE/NNSA identified similar issues with the Special Tooling program as part of our oversight activities. DOE/NNSA will ensure the DNFSB suggestions are evaluated as it continues to develop additional improvement actions, but do not believe the issues result in challenging adequate protection of public health or safety.

Safety Controls Associated With Low-Probability/High-Consequent Events

The DNFSB raised concerns that some scenarios determined to be 'sufficiently unlikely' (*i.e.,* expected to occur between once-in-a-million and once-in-a-billion years) in the applicable Pantex safety basis documents did not have clearly identified safety controls for preventing or mitigating the potentially high consequences (*e.g.,* worker fatality or public radiological exposure). The DOE/NNSA provides the following perspective regarding these concerns:

- As noted in the DNFSB's Draft Recommendation, questions associated with 'new information' related to potential accident scenarios are evaluated via the Pantex Problem Identification and Evaluation process. This process ensures that appropriate operational restrictions or compensatory measures are implemented while resolving any potential safety issues associated with the adequacy of safety controls. During the past year, DOE/NNSA has verified this process has been effectively executed by CNS, and has driven improvements to the process as warranted.
- One of the concerns raised by the DNFSB, associated with the adequacy of safety controls for 'sufficiently unlikely' scenarios, was reliance on Key Elements

of Safety Management Programs to prevent high-consequences during potential 'Falling Man' scenarios. In September 2018, the DOE/NNSA approved a Safety Basis Supplement that identified additional 'Falling Man' controls, which are structured, credited, and protected as Specific Administrative Controls (SACs) rather than programmatic Key Elements. As noted above, CNS implemented these 'Falling Man' SACs in all active nuclear explosive cells as of December 20, 2018, and will implement them in active nuclear explosive bays by February 28, 2019.

• Other than the control adequacy issues discussed above, the remaining control adequacy concerns generally relate to weaknesses in the safety basis documentation. The two most common examples are (a) controls that are already implemented in the field but are not specifically linked to and credited for scenarios in the safety basis that were dispositioned as 'sufficiently unlikely' and (b) scenarios that were inappropriately deemed as 'sufficiently unlikely' in the safety basis where in reality they are not credible (*e.g.,* the scenario would require deliberate or malicious procedural violations).

The aforementioned Safety Basis Supplement provides a framework for evaluating and categorizing these documentation-related issues. CNS developed a Corrective Action Plan that DOE/NNSA approved in November 2018 that includes commitments to perform extent-of-condition reviews of all Pantex Safety Basis Documents by the end of 2019, with the objective of identifying and correcting all instances of these documentation-related issues. To date, CNS has executed on schedule the actions captured in this Corrective Action Plan.

Configuration Management of the Pantex Safety Basis

The DNFSB raised concerns related to the processes used to maintain configuration management of the Pantex safety basis. Specifically, the DNFSB expressed concern that: (a) Updates to Pantex safety basis documents are not always completed on an annual basis; (b) the Pantex USQ procedure allows discrepant-as-found conditions to be corrected without suspending impacted operations or making necessary notifications; and (c) some Justifications for Continued Operations (JCOs) are extended beyond a year. DOE/NNSA provides the following perspectives regarding these concerns:

• The DNFSB's concern related to the timeliness of updating safety basis documents appears to be based on data collected during 2017. The vast majority of Pantex safety basis documents were updated on-time in 2018, the lone exception being the update associated with the Site-wide Safety Analysis Report. CNS is committed to updating this document by March 2019. The aforementioned Corrective Action Plan, approved by DOE/NNSA in November 2018, includes actions to revise the administrative procedures for developing and revising Pantex safety basis documents. These actions specifically identify improving configuration management of safety basis documents as an objective, which, when executed effectively, should preclude similar issues from occurring in the future.

• The DNFSB's Draft Recommendation states that ''the Pantex USQ procedures allow three days to correct discrepant-as-found conditions . . . without stopping operations, notifying the Department of Energy (DOE), or initiating the Pantex process for addressing a potential inadequacy of the safety analysis.'' While the Pantex USQ procedure does allow three days to correct a discrepant-as-found condition prior to declaring a Potential Inadequacy of the Safety Analysis (PISA), Pantex procedures require: (a) Suspending operations whenever a safety question is raised (*e.g.,* discovery of discrepant-as-found conditions); (b) making appropriate notifications to the DOE/NNSA Production Office (NPO); and (c) initiating the DOE-Approved Pantex USQ process. Therefore, we believe the proper safety control is in place.

• The DNFSB's Draft Recommendation includes a concern with the processes for handling JCOs and the extension of some for an extended period of time. The goal in the Pantex USQ procedure of addressing JCOs in less than a year is derived from guidance in DOE Guide 424.1–lB. The intent is to ensure JCOs and their compensatory measures are used to address temporary changes to the safety basis until permanent solutions can be identified and incorporated. While one year is a viable goal for limiting use of a JCO, it is not always practical to resolve issues in nuclear or nuclear explosive operations in that time frame. Many of the issues identified in JCOs involve complex operations or hazard scenarios where a permanent solution cannot be developed without extensive analysis or physical changes to facilities, systems, or equipment. Several JCO extensions were to allow additional time to develop permanent solutions, instead of incorporating compensatory measures into the safety basis only to revise the documents again once the permanent solution was developed. Each extension was approved by the Safety Basis Approval Authority after NPO fully evaluated the JCO conditions and compensatory measures, and concluded operations could be continued safely with the JCO compensatory measures.

Special Tooling Program

The DNFSB expressed concerns that deficiencies exist within the Pantex Special Tooling Program. Examples of the identified deficiencies include: (a) Inconsistencies between Pantex tooling procedures and site practices; (b) additional Non-Destructive Evaluation techniques being used to inspect welds on tooling; (c) reliance on worker knowledge and skill-of-the-craft during tooling inspection, maintenance, and testing activities; (d) tool-specific performance criteria not being listed in the Pantex safety basis; and (e) weaknesses in analysis and testing for mechanical impact scenarios involving tooling. DOE/NNSA provides the following perspectives regarding these concerns:

• Subsequent to the DNFSB's September 2017 review, tooling-specific deviations from Pantex procedures were reviewed and confirmed that continued use of the subject tools meets applicable requirements. Additional corrective actions have been taken to prevent recurrence of the inconsistencies.

• Subsequent to the DNFSB's September 2017 review, CNS engaged an outside expert to review the Pantex welding program, who concluded that Pantex processes meet expectations. That is, welds are performed and inspected by qualified welders in accordance with applicable industry standards.

• Pantex tools are maintained and tested by trained and qualified journeymen mechanics in accordance with programmatic and tool-specific requirements.

Conclusion

DOE/NNSA appreciates the perspective provided by the DNFSB. DOE/NNSA has thoroughly reviewed the DNFSB input provided in the Draft Recommendation 2018–1, Uncontrolled Hazard Scenarios and 10 CFR 830 Implementation at the Pantex Plant, and looks forward to continued positive interactions with the DNFSB on this and other matters. DOE/NNSA is eager to discuss the Corrective Action Plan in place at Pantex with the Board so that the DNFSB can see the many actions underway to address areas known to need improvement.

In the interim, DOE/NNSA's efforts continue to focus on our shared goal of meeting the nation's weapons program needs in a manner that ensures adequate protection of public health and safety. Through the comments presented in response to Draft Recommendation 2018–1, DOE/NNSA takes this opportunity to provide key additional information and stress its understanding of the importance of the steps it takes to continuously improve the Pantex safety basis and its implementation.

Authority: 42 U.S.C. 2286d(b)(2).

Dated: March 12, 2019.

Bruce Hamilton,

Chairman.

[FR Doc. 2019–04941 Filed 3–18–19; 8:45 am]

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Part III

Department of the Interior

Fish and Wildlife Service

50 CFR Part 18

Marine Mammals; Incidental Take During Specified Activities: Cook Inlet, Alaska; Proposed Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 18

[Docket No. FWS–R7–ES–2019–0012; FXES111607MRG01–190–FF07CAMM00]

RIN 1018–BD63

Marine Mammals; Incidental Take During Specified Activities: Cook Inlet, Alaska

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; availability of draft environmental assessment; revision of information collection; and request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service, in response to a request from Hilcorp Alaska, LLC, Harvest Alaska, LLC, and the Alaska Gasline Development Corporation, propose to issue regulations authorizing the nonlethal, incidental take by harassment of small numbers of northern sea otters in State and Federal waters (Alaska and the Outer Continental Shelf) within Cook Inlet, Alaska, as well as all adjacent rivers, estuaries, and coastal lands. Take may result from oil and gas exploration, development, production, and transportation activities occurring for a period of 5 years. This proposed rule would authorize take by harassment only; no lethal take would be authorized. If this rule is finalized, we will issue Letters of Authorization, upon request, for specific proposed activities in accordance with the regulations. We intend that any final action resulting from this proposed rule will be as accurate and as effective as possible. Therefore, we request comments on these proposed regulations. We have also submitted a request for revision of existing Information Collection 1018–0070 to the Office of Management and Budget for approval.

DATES: Comments on these proposed incidental take regulations and the accompanying draft environmental assessment will be accepted on or before April 3, 2019.

Information Collection Requirements: If you wish to comment on the information collection requirements in this proposed rule, please note that the Office of Management and Budget (OMB) is required to make a decision concerning the collection of information contained in this proposed rule between 30 and 60 days after publication of this proposed rule in the **Federal Register**. Therefore, comments should be submitted to OMB by April 18, 2019.

ADDRESSES:

Document availability: You may view this proposed rule, the application package, supporting information, draft environmental assessment, and the list of references cited herein at *http://www.regulations.gov* under Docket No. FWS–R7–ES–2019–0012, or these documents may be requested as described under **FOR FURTHER INFORMATION CONTACT**. You may submit comments on the proposed rule by one of the following methods:

- *U.S. mail or hand-delivery:* Public Comments Processing, Attn: Docket No. FWS–R7–ES–2019–0012, Division of Policy, Performance, and Management Programs, U.S. Fish and Wildlife Service, 5275 Leesburg Pike, MS: BPHC, Falls Church, VA 22041–3803.
- *Electronic submission:* Federal eRulemaking Portal at: *http://www.regulations.gov.* Follow the instructions for submitting comments to Docket No. FWS–R7–ES–2019–0012.

We will post all comments at *http://www.regulations.gov.* You may request that we withhold personal identifying information from public review; however, we cannot guarantee that we will be able to do so. See Request for Public Comments for more information.

Information collection requirements: Send your comments on the requested revision of the information collection request (ICR) to the Desk Officer for the Department of the Interior at OMB–OIRA at 202–395–5806 (fax) or *oira_submission@omb.eop.gov* (email). Please provide a copy of your comments to the Service Information Collection Clearance Officer, U.S. Fish and Wildlife Service, MS: BPHC, 5275 Leesburg Pike, Falls Church, VA 22041–3803 (mail); or *info_coll@fws.gov* (email). Please include ''1018–0070'' in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: Mr. Christopher Putnam, U.S. Fish and Wildlife Service, MS 341, 1011 East Tudor Road, Anchorage, Alaska 99503, by email at *christopher_putnam@fws.gov,* or by telephone at 907–786–3844. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service (FRS) at 1–800–877–8339, 24 hours a day, 7 days a week.

Questions regarding the Service's request to revise the Information Collection control number 1018–0070 may be submitted to the Service Information Collection Clearance Officer, U.S. Fish and Wildlife Service, MS: BPHC, 5275 Leesburg Pike, Falls Church, VA 22041–3803 (mail); 703–358–2503 (telephone), or *info_coll@fws.gov* (email). Please include ''1018–0070'' in the subject line of your email request.

SUPPLEMENTARY INFORMATION:

Background

Section 101(a)(5)(A) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361(a)(5)(A)) (MMPA), gives the Secretary of the Interior (Secretary) the authority to allow the incidental, but not intentional, taking of small numbers of marine mammals in response to requests by U.S. citizens engaged in a specified activity in a specified region. The Secretary has delegated authority for implementation of the MMPA to the U.S. Fish and Wildlife Service (Service). According to the MMPA, the Service shall allow this incidental taking for a period of up to 5 years if we make findings that such taking: (1) Will affect only small numbers of individuals of these species or stocks; (2) will have no more than a negligible impact on these species or stocks; (3) will not have an unmitigable adverse impact on the availability of these species or stocks for taking for subsistence use by Alaska Natives; and (4) we issue an incidental take regulation (ITR) setting forth: (a) The permissible methods of taking, (b) the means of effecting the least practicable adverse impact on the species, their habitat, and the availability of the species for subsistence uses, and (c) the requirements for monitoring and reporting. If final regulations allowing such incidental taking are issued, we may then subsequently issue a letter of authorization (LOA), upon request, to authorize incidental take during the specified activities.

The term ''take,'' as defined by the MMPA, means to harass, hunt, capture, or kill, or to attempt to harass, hunt, capture, or kill any marine mammal (16 U.S.C. 1362(13)). Harassment, as defined by the MMPA, means any act of pursuit, torment, or annoyance that (i) has the potential to injure a marine mammal or marine mammal stock in the wild (the MMPA calls this ''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 (the MMPA calls this ''Level B harassment'').

The terms ''negligible impact,'' ''small numbers,'' ''unmitigable adverse impact,'' and ''U.S. citizens,'' among others, are defined in title 50 of the Code of Federal Regulations at 50 CFR 18.27, the Service's regulations governing take of small numbers of marine mammals incidental to specified

activities. ''Negligible impact'' is defined 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. ''Small numbers'' is defined as a portion of a marine mammal species or stock whose taking would have a negligible impact on that species or stock. However, we do not rely on that definition here, as it conflates the terms ''small numbers'' and ''negligible impact,'' which we recognize as two separate and distinct requirements. Instead, in our small numbers determination, we evaluate whether the number of marine mammals likely to be taken is small relative to the size of the overall stock.

''Unmitigable adverse impact'' is defined as an impact resulting from the specified activity (1) that is likely to reduce the availability of the species to a level insufficient for a harvest to meet subsistence needs by (i) causing the marine mammals to abandon or avoid hunting areas, (ii) directly displacing subsistence users, or (iii) placing physical barriers between the marine mammals and the subsistence hunters; and (2) that cannot be sufficiently mitigated by other measures to increase the availability of marine mammals to allow subsistence needs to be met. The term ''least practicable adverse impact'' is not defined in the MMPA or its enacting regulations. We ensure the least practicable adverse impact by requiring mitigation measures that are effective in reducing the impacts of the proposed activities, but are not so restrictive as to make conducting the activities unduly burdensome or impossible to undertake and complete.

Implementation of the ITR, if finalized, will require information collection activities. The Service has requested that the Office of Management and Budget revise the existing Information Collection form 1018–0070, for incidental take of marine mammals in the Beaufort and Chukchi Seas, to include oil and gas activities in Cook Inlet.

Summary of Request

On May 3, 2018, Hilcorp Alaska, LLC (Hilcorp), Harvest Alaska, LLC (Harvest), and the Alaska Gasline Development Corporation (AGDC), hereinafter referred to as the ''applicant,'' petitioned the Service to promulgate regulations pursuant to section 101(a)(5)(A) of the MMPA for the nonlethal, unintentional taking of small numbers of northern sea otters (*Enhydra lutris kenyoni;* hereafter ''sea otters'' or ''otters'') incidental to oil and gas exploration, development, production, and transportation activities in Cook Inlet, Alaska, for a period of 5 years. On June 28, 2018, the applicant submitted an amended request providing additional project details.

Description of the Proposed ITR

The proposed ITR, if finalized, will not authorize the proposed activities. Rather, it will authorize the nonlethal incidental, unintentional take of small numbers of sea otters associated with those activities based on standards set forth in the MMPA. The proposed ITR includes: Permissible amounts and methods of nonlethal taking; measures to ensure the least practicable adverse impact on sea otters and their habitat; measures to avoid and reduce impacts to subsistence uses; and requirements for monitoring and reporting.

Description of the ITR Geographic Area

The geographic region of the proposed ITR encompasses Cook Inlet south of a line from the Susitna River Delta to Point Possession (approximately 61°15′54″ N, 150°41′07″ W, to 61°02′19″ N, 150°23′48″ W, WGS 1984) and north of a line from Rocky Cove to Coal Cove (at approximately 59°25′56″ N, 153°44′25″ W and 59°23′48″ N, 151°54′28″ W WGS 1984), excluding Ursus Cove, Iniskin Bay, Iliamna Bay, and Tuxedni Bay (see Proposed Regulation Promulgation, § 18.131 Specified geographic region where this subpart applies). The proposed ITR area includes all Alaska State waters and Outer Continental Shelf (OCS) Federal waters within this area as well as all adjacent rivers, estuaries, and coastal lands where sea otters may occur, unless explicitly excluded.

The geographical extent of the proposed Cook Inlet ITR region is approximately 1.1 million hectares (ha) (2.7 million acres (ac)). For descriptive purposes, the specified area is organized into two marine areas within Cook Inlet: Lower Cook Inlet (south of the Forelands to Homer) and middle Cook Inlet (north of the Forelands to the Susitna River and Point Possession).

Description of Specified Activities

The specified activities include work related to oil and gas exploration, development, production, transport, and the decommissioning of existing facilities conducted by the applicant within a 5-year period. Hilcorp and Harvest jointly plan to conduct the following activities: Two-dimensional (2D) and three-dimensional (3D) seismic surveys in lower Cook Inlet; production drilling from, routine operation of, and maintenance of existing oil and gas facilities in middle Cook Inlet; geophysical and geohazard surveys in both regions; drilling of two to four exploration wells in OCS waters of lower Cook Inlet and one to three wells in middle Cook Inlet; construction of a dock facility in Chinitna Bay; and decommissioning of an existing facility at the Drift River Terminal in middle Cook Inlet. The following support activities will be conducted: Pipe and pile driving; vertical seismic profiling; and use of a water jet, hydraulic grinder, and submersible saw for pipeline and platform maintenance. AGDC plans to install a natural gas pipeline from the west side of middle Cook Inlet to the east side of lower Cook Inlet and to construct processing and loading facilities on either side. Support activities for AGDC will include pile driving, dredging, geophysical surveys, trenching, fill placement, and anchor handling. Hilcorp, Harvest, and AGDC will use vessels and aircraft to support the activities. Detailed descriptions of the proposed work are provided in the applicant's petition for incidental take regulations for oil and gas activities in Cook Inlet (June 28, 2018), the stakeholder engagement plan (April 2018), and the marine mammal monitoring and mitigation plan (May 2018). These documents can be obtained from the locations described above in **ADDRESSES**. Table 1 summarizes the planned activities.

TABLE 1—SUMMARY OF PLANNED ACTIVITIES INCLUDED IN ITR PETITION

Project component name & location	Geographic region	Year(s) planned	Seasonal timing	Total anticipated duration (2019–2024)
Anchor Point two-dimensional (2D) seismic survey.	Lower Cook Inlet, Anchor Point to Kasilof.	2021 or 2022	April–October	30 days.

TABLE 1—SUMMARY OF PLANNED ACTIVITIES INCLUDED IN ITR PETITION—Continued

Project component name & location	Geographic region	Year(s) planned	Seasonal timing	Total anticipated duration (2019–2024)
Outer Continental Shelf (OCS) three-dimensional (3D) seismic survey.	Lower Cook Inlet OCS	2019	April–June	90 days.
OCS geohazard survey	Lower Cook Inlet OCS	2019 or 2020	Fall 2019 or spring 2020	30 days.
OCS exploratory wells	Lower Cook Inlet OCS	2020–2022	April–October	40–60 days per well 2–4 wells per year.
Iniskin Peninsula exploration and development	Lower Cook Inlet, west side.	2019–2020	April–October	180 days.
Platform & pipeline maintenance	Middle Cook Inlet	2019–2024	April–October	180 days.
North Cook Inlet Unit subsea well geohazard survey.	Middle Cook Inlet	2020	May	14 days.
North Cook Inlet Unit well abandonment activity.	Middle Cook Inlet	2020	May–June	90 days.
Trading Bay area geohazard survey	Middle Cook Inlet	2020	May	30 days.
Trading Bay area exploratory wells	Middle Cook Inlet	2020	May–October	120–150 days.
Drift River terminal decommissioning	Lower Cook Inlet, west side.	2023	April–October	120 days.
Product loading facility pile driving	Middle Cook Inlet	2021–2023	April–October	162 days.
Material offloading facilities dredging	Middle Cook Inlet	2021–2022	April–October	360 days.
Material offloading facilities pile driving	Middle Cook Inlet	2021–2022	April–October	146.5 days.
Trenching, pipelay, burial	Middle Cook Inlet	2023–2024	April–October	360 days.
Pipelay anchor handling	Middle Cook Inlet	2023–2024	April–October	18.75 days.

Description of Marine Mammals in the Specified Area

The northern sea otter is currently the only marine mammal under the Service's jurisdiction that normally occupies Cook Inlet, Alaska. Sea otters in Alaska are composed of three stocks. Those in Cook Inlet belong to either the southwest Alaska stock or the southcentral Alaska stock, depending on whether they occur west or east of the center of Cook Inlet, respectively. A third stock occurs in southeast Alaska.

The southwest stock of the northern sea otter is the southwest distinct population segment (DPS), which was listed as threatened under the Endangered Species Act of 1973 (ESA; 16 U.S.C. 1531, *et seq.*) on August 9, 2005 (70 FR 46366). On October 8, 2009 (74 FR 51988), the Service finalized designation of 15,164 square kilometers (km^2) (or 5,855 square miles (mi^2)) of critical habitat for the sea otter in southwest Alaska. Critical habitat occurs in nearshore marine waters ranging from the mean high tide line seaward for a distance of 100 meters (m), or to a water depth of 20 m. Detailed information about the biology and conservation status of the listed DPS can be found at *https://www.fws.gov/alaska/fisheries/mmm/seaotters/otters.htm.* Stock assessment reports for each of the three stocks are available at *https://www.fws.gov/alaska/fisheries/mmm/stock/stock.htm.*

Sea otters may occur anywhere within the specified project area, other than upland areas, but are not usually found north of about 60°23′30″ N. The number of sea otters in Cook Inlet was estimated from an aerial survey conducted by the Service in cooperation with the U.S. Geological Survey (USGS) in May 2017 (Garlich-Miller *et al.* 2018). The sea otter survey was conducted in all areas of Cook Inlet south of approximately 60°16′30″ N within the 40-m (131-feet (ft)) depth contour, including Kachemak Bay in southeastern Cook Inlet and Kamishak Bay in southwestern Cook Inlet. This survey was designed to estimate abundance in Cook Inlet while accounting for the variable densities and observability of sea otters in the region. Total abundance was estimated to be 19,889 sea otters (standard error = 2,988). Within the project area, the highest densities of sea otters were found in the outer Kamishak Bay area, with 3.5 otters per km^2, followed by the eastern shore of Cook Inlet with 1.7 otters per km^2.

Sea otters generally occur in shallow water near the shoreline. They are most commonly observed within the 40-m (131-ft) depth contour (USFWS 2014a,b), although they can be found in areas with deeper water. Depth is generally correlated with distance to shore, and sea otters typically remain within 1 to 2 kilometers (km) or 0.62 to 1.24 miles (mi) of shore (Riedman and Estes 1990). They tend to remain closer to shore during storms, but they venture farther out during good weather and calm seas (Lensink 1962; Kenyon 1969).

Sea otters are non-migratory and generally do not disperse over long distances (Garshelis and Garshelis 1984). They usually remain within a few kilometers of their established feeding grounds (Kenyon 1981). Breeding males remain for all or part of the year in a breeding territory covering up to 1 km (0.62 mi) of coastline. Adult females have home ranges of approximately 8 to 16 km (5 to 10 mi), which may include one or more male territories. Juveniles move greater distances between resting and foraging areas (Lensink 1962; Kenyon 1969; Riedman and Estes 1990; Tinker and Estes 1996).

Although sea otters generally remain local to an area, they may shift home ranges seasonally, and are capable of long-distance travel. Otters in Alaska have shown daily movement distances greater than 3 km (1.9 mi) at speeds up to 5.5 km per hour (3.4 mi per hour) (Garshelis and Garshelis 1984). In eastern Cook Inlet, large numbers of sea otters have been observed riding the incoming tide northward and returning on the outgoing tide, especially in August. They are presumably feeding along the eastern shoreline of Cook Inlet during the slack tides when the weather is good and remaining in Kachemak Bay during periods of less favorable weather (Gill *et al.* 2009; BlueCrest 2013). In western Cook Inlet, otters appear to move in and out of Kamishak Bay in response to seasonal changes in the presence of sea ice (Larned 2006).

Potential Effects of the Activities

Effects of Noise

The operations outlined in the Description of Specified Activities and described in the applicant's petition have the potential to result in take of sea otters by harassment from acoustic

disturbance. Potential effects are likely to depend on the distance of the otter from the sound source and the level of sound received by the otter. Project components most likely to cause acoustic disturbance are shown in Table 2. Temporary disturbance or localized displacement reactions are the most likely to occur. With implementation of the proposed mitigation and monitoring measures described in § 18.137 Mitigation, § 18.138 Monitoring, and § 18.139 Reporting requirements, no lethal take is anticipated, and take by harassment (Level A and Level B) is expected to be minimized to the greatest extent practicable.

TABLE 2—PROJECT COMPONENTS PROPOSED BY HILCORP ALASKA, LLC, HARVEST ALASKA, LLC, AND THE ALASKA GASLINE DEVELOPMENT CORPORATION CAPABLE OF CAUSING INCIDENTAL TAKE BY HARASSMENT OF NORTHERN SEA OTTERS DUE TO ACOUSTIC EXPOSURE IN COOK INLET

Project component name & location	Anticipated noise sources
Anchor Point two-dimensional (2D) seismic survey.	Marine: 1 source vessel with airgun, 1 node vessel; Onshore/Intertidal: Shot holes, tracked vehicles, helicopters.
Outer Continental Shelf (OCS) three-dimensional (3D) seismic survey.	2 source vessels with airguns, 2 support vessels, 1 mitigation vessel (potentially).
OCS geohazard survey	1 vessel with echosounders and/or subbottom profilers.
OCS exploratory wells	1 jack-up rig, drive pipe installation, 2–3 tugs for towing rig, support vessels, helicopters.
Iniskin Peninsula exploration and development	Construction of causeway, dredging, vessels.
Platform & pipeline maintenance	Vessels, water jets, hydraulic grinders, helicopters, and/or sub-bottom profilers.
North Cook Inlet Unit subsea well geohazard survey.	1 vessel with echosounders and/or subbottom profilers.
North Cook Inlet Unit well abandonment activity	1 jack-up rig, tugs towing rig, support vessel, helicopters.
Trading Bay area geohazard survey	1 vessel with echosounders and/or subbottom profilers.
Trading Bay area exploratory wells	1 jack-up rig, drive pipe installation, tugs for towing rig, support vessels, helicopters.
Drift River terminal decommissioning	Vessels.

Noise Levels

Whether a specific noise source will affect a sea otter depends on several factors, including the distance between the animal and the sound source, the sound intensity, background noise levels, the noise frequency, the noise duration, and whether the noise is pulsed or continuous. The actual noise level perceived by individual sea otters will depend on distance to the source, whether the animal is above or below water, atmospheric and environmental conditions, as well as aspects of the noise emitted.

Noise levels herein are given in decibels referenced to 1 μPa (dB re: 1 μPa) for underwater sound. All dB levels are dB_{RMS} unless otherwise noted; dB_{RMS} refers to the root-mean-squared dB level, the square root of the average of the squared sound pressure level (SPL) typically measured over 1 second. Other important metrics include the sound exposure level (SEL; represented as dB re: 1 μPa^2-s), which represents the total energy contained within a pulse and considers both intensity and duration of exposure, and the peak sound pressure (also referred to as the zero-to-peak sound pressure or 0–p). Peak sound pressure is the maximum instantaneous sound pressure measurable in the water at a specified distance from the source and is represented in the same units as the RMS sound pressure. See Richardson *et al.* (1995), Götz *et al.* (2009), Hopp *et al.* (2012), Navy (2014), or similar resources for descriptions of acoustical terms and measurement units in the context of ecological impact assessment. A summary of the sounds produced by the various components of the proposed activities is provided in Tables 3 and 4.

TABLE 3—SUMMARY OF ACOUSTIC SOURCE LEVELS FOR PROPOSED ACTIVITIES

Applicant	Activity	Sound pressure levels (dB re 1 μPa)	Frequency	Reference
Hilcorp/Harvest Alaska, AGDC.	General vessel operations	145–175 dB rms at 1 m	10–1,500 Hz	Richardson *et al.* 1995; Blackwell and Greene 2003; Ireland and Bisson 2016.
Hilcorp/Harvest Alaska, AGDC.	General aircraft operations	100–124 dB rms at 1 m	<500 Hz	Richardson *et al.* 1995.
Hilcorp/Harvest Alaska.	2D seismic survey (2,400 cui airgun).	217 dB peak at 100 m; 185 dB SEL at 100 m; 197 dB rms at 100 m.	<300 Hz	Austin and Warner 2012; 81 FR 47240 (July 20, 2016).
Hilcorp/Harvest Alaska.	3D seismic survey (2,400 cui airgun).	217 dB peak at 100 m; 185 dB SEL at 100 m; 197 dB rms at 100 m.	<300 Hz	Austin and Warner 2012; 81 FR 47240 (July 20, 2016).
Hilcorp/Harvest Alaska.	Geohazard surveys	210–220 dB rms at 1 m	Echosounders & side scan sonar: >200 kHz. High-resolution sub-bottom profiler: 2–24 kHz. Low-resolution sub-bottom profiler: 1–4 kHz.	Manufacturer specifications.
Hilcorp/Harvest Alaska.	Exploratory drilling rig	137 dB rms at 1 m	<200 Hz	Marine Acoustics Inc. 2011.

TABLE 3—SUMMARY OF ACOUSTIC SOURCE LEVELS FOR PROPOSED ACTIVITIES—Continued

Applicant	Activity	Sound pressure levels (dB re 1 μPa)	Frequency	Reference
Hilcorp/Harvest Alaska.	Tugs under load towing rig	191 dB rms at 1 m	<500 Hz	LGL/JASCO/Greeneridge 2014.
Hilcorp/Harvest Alaska.	Drive pipe installation	190 dB rms at 55 m	<500 Hz	Illingworth & Rodkin 2014.
Hilcorp/Harvest Alaska.	Vertical seismic profiling	227 dB rms at 1 m	<500 Hz	Illingworth & Rodkin 2014.
Hilcorp/Harvest Alaska.	Sub-bottom profiling	212 dB rms at 1 m	1–24 kHz	Manufacturer specifications.
Hilcorp/Harvest Alaska.	Rock laying for Iniskin Peninsula causeway.	136–141 dB rms at 12–19 m	<500 Hz	Nedwell and Edwards 2004; URS 2007.
Hilcorp/Harvest Alaska.	Vibratory sheet pile driving for Iniskin Peninsula causeway.	175 dB peak at 10 m; 160 dB SEL at 10 m; 160 dB rms at 10 m.	<100–2,500 Hz	Illingworth & Rodkin 2007.
Hilcorp/Harvest Alaska.	Offshore production platforms	97–111 dB rms at 0.3–19 km	<500 Hz	Blackwell and Greene 2003.
Hilcorp/Harvest Alaska.	Water jet	176 dB rms at 1 m	500 Hz–2 kHz	Austin 2017.
Hilcorp/Harvest Alaska.	Hydraulic grinder	159 dB at 1 m	<1 kHz	Stanley 2014.
Hilcorp/Harvest Alaska.	Pingers	192 dB rms at 1 m	4–14 kHz	Manufacturer specifications.
AGDC	Dredging: Including Clamshell dredge, Winching in/out, Dumping into barge, Empty barge at placement site.	107–142.6 dB rms at 10 m	<2.5 kHz, broadband	Dickerson *et al.* 2001, URS 2007.
AGDC	Underwater trenching with backhoe in shallow water.	145 dB @10 m	<2.5 kHz, broadband	Greene *et al.* 2008.
AGDC	Anchor handling	188 dB	<2.5 kHz, broadband	LGL/JASCO/Greeneridge 2014.

TABLE 4—SUMMARY OF ACOUSTICAL SOURCES OF PILE-DRIVING ACTIVITIES FOR AGDC FROM ILLINGWORTH & RODKIN [2007]

Representative pile type and size	Hammer type	Sound pressure level (dB re 1 μPa)			Project pile type and size
		Peak	RMS	SEL	
24-inch AZ sheet pile	Impact	205	190	180	Sheet pile.
24-inch AZ sheet pile	Vibratory	175	160	160	Sheet pile.
24-inch steel pipe pile	Impact	207	194	178	18- and 24-inch piles.
60-inch steel shell pile	Impact	210	195	185	48- and 60-inch piles.
72-inch steel pipe piles	Vibratory	183	170	170	All size piles

Sea Otter Hearing

Sound frequencies produced by the applicant's survey and construction activities will fall within the hearing range of sea otters and therefore will be audible to animals. Controlled sound exposure trials on southern sea otters (*E. l. nereis*) indicate that otters can hear frequencies between 125 hertz (Hz) and 38 kilohertz (kHz) with best sensitivity between 1.2 and 27 kHz (Ghoul and Reichmuth 2014). Aerial and underwater audiograms for a captive adult male southern sea otter in the presence of ambient noise suggest the sea otter's hearing was less sensitive to high-frequency (greater than 22 kHz) and low-frequency (less than 2 kHz) sounds than terrestrial mustelids but similar to that of a sea lion. Dominant frequencies of southern sea otter vocalizations are between 3 and 8 kHz, with some energy extending above 60 kHz (McShane *et al.* 1995; Ghoul and Reichmuth 2012a).

Exposure to high levels of sound may cause changes in behavior, masking of communications, temporary changes in hearing sensitivity, discomfort, and physical or auditory injury. Species-specific criteria for preventing harmful exposures to sound have not been identified for sea otters. Thresholds have been developed for other marine mammals, above which exposure is likely to cause behavioral disturbance and injuries (Southall *et al.* 2007; Finneran and Jenkins 2012; NMFS 2018a). Because sea otter hearing abilities and sensitivities have not been fully evaluated, we relied on the closest related proxy, California sea lions (*Zalophus californianus*), to evaluate the potential effects of noise exposure.

The California sea lion, an otariid pinniped, has a frequency range of hearing most similar to that of the southern sea otter (Ghoul and Reichmuth 2014) and provides the closest related proxy for which data are available. Sea otters and pinnipeds share a common mammalian aural physiology (Echteler *et al.* 1994; Solntseva 2007). Both are adapted to amphibious hearing, and both use sound in the same way (primarily for communication rather than feeding).

Exposure Criteria

Noise exposure criteria have been established by the National Marine Fisheries Service (NMFS) for identifying underwater noise levels capable of causing Level A harassment (injury) of

marine mammals, including otariid pinnipeds (NMFS 2018a). Sea otter-specific criteria have not been determined; however, because of their biological similarities, we assume that noise criteria developed by NMFS for injury for otariid pinnipeds will be a suitable surrogate for sea otter impacts as well. Those criteria are based on estimated levels of sound exposure capable of causing a permanent shift in sensitivity of hearing (*e.g.,* a permanent threshold shift (PTS) (NMFS 2018a)). PTS occurs when noise exposure causes hairs within the inner ear system to die. This can occur due to moderate durations of very loud noise level exposure, or long-term continuous exposure of moderate noise levels.

NMFS's (2018a) criteria for sound exposure incorporate two metrics of exposure: The peak level of instantaneous exposure likely to cause PTS, and the cumulative exposure level during a 24-hour period (SELcum). They also include weighting adjustments for the sensitivity of different species to varying frequencies. PTS-based injury criteria were developed from theoretical extrapolation of observations of temporary threshold shifts (TTS) detected in lab settings during sound exposure trials. Studies were summarized by Finneran (2015). For pinnipeds, PTS is predicted to occur at 232 dB peak or 203 dB SELcum for impulsive sound, or 219 dB SELcum for non-impulsive (continuous) sound.

NMFS criteria for Level A represents the best available information for predicting injury from exposure to underwater sound among pinnipeds, and in the absence of data specific to otters, we assume these criteria also represent appropriate exposure limits for Level A take of sea otters.

NMFS (2018a) criteria do not identify thresholds for avoidance of Level B take. For pinnipeds, NMFS has adopted a 160-dB threshold for Level B take from exposure to impulse noise and a 120-dB threshold for continuous noise (NMFS 1998; HESS 1999; NMFS undated). These thresholds were developed from observations of mysticete (baleen) whales responding to airgun operations (*e.g.,* Malme *et al.* 1983a, 1983b; Richardson *et al.* 1986, 1995) and from equating Level B take with noise levels capable of causing TTS in lab settings.

We have evaluated these thresholds and determined that the Level B threshold of 120 dB for non-impulsive noise is not applicable to sea otters. The 120-dB threshold is based on studies conducted by Malme *et al.* in the 1980s, during which gray whales were exposed to experimental playbacks of industrial noise. Based on the behavioral responses of gray whales to the playback of drillship noise during a study at St. Lawrence Island, Alaska, Malme *et al.* (1988) concluded that ''exposure to levels of 120 dB or more would probably cause avoidance of the area by more than one-half of the gray whales.'' Sea otters do not usually occur at St. Lawrence Island, Alaska, but similar playback studies conducted off the coast of California (Malme 1983a, 1984) included a southern sea otter monitoring component (Riedman 1983, 1984). The 1983 and 1984 studies detected probabilities of avoidance in gray whales comparable to those reported in Malme *et al.* (1988), but there was no evidence of disturbance reactions or avoidance in southern sea otters.

The applicable Level B thresholds mays also depend on the levels of background noise present and the frequencies generated. NMFS acknowledges that the 120-dB threshold may not be applicable if background noise levels are high (NMFS undated), which is the case in Cook Inlet, where ambient levels can often exceed 120 dB (Blackwell and Greene 2003).

Thresholds developed for one species may not be appropriate for another due to differences in their frequency sensitivities. Continuous sound sources associated with the proposed activities include vibratory pile driving, vessel activities, use of a hydraulic grinder or water jet, dredging, trenching, and anchor handling. These are expected to produce low-frequency broadband noise. For example, vibratory pile driving will generate sound with frequencies that are predominantly lower than 2 kHz, and with the greatest pressure spectral densities at frequencies below 1 kHz (Dahl *et al.* 2015). Sea otters are capable of hearing down to 125 Hz, but have relatively poor hearing sensitivity at frequencies below 2 kHz (Ghoul and Reichmuth 2014). As a result, much of the noise generated by vibratory pile driving and other broadband noise is expected to be inaudible or marginally audible to sea otters. During a project that occurred in Elkhorn Slough, California, sound levels ranging from approximately 135 to 165 dB during vibratory pile driving elicited no clear pattern of disturbance or avoidance among southern sea otters in areas exposed to these levels of underwater sound (ESNERR 2011). In contrast, gray whales are in the group of marine mammals believed to be most sensitive to low frequency sounds, with an estimated audible frequency range of approximately 10 Hz to 30 kHz (Finneran 2016). Given the different range of frequencies to which sea otters and gray whales are sensitive, the NMFS 120-dB threshold based on gray whale behavior is not useful for predicting sea otter behavioral responses to low frequency sound.

The NMFS Level B thresholds do not account for different behaviors among taxa. Harbor porpoise, beaked whales, and mysticete whales appear significantly more sensitive to noise exposure than other marine mammals (*e.g.,* Richardson *et al.* 1999. Tyack *et al.* 2011; Southall *et al.* 2007). Although no specific thresholds have been developed for sea otters, several alternative behavioral response thresholds for have been developed for pinnipeds.

Southall *et al.* (2007) assessed behavioral response studies, found considerable variability among pinnipeds, and determined that exposures between approximately 90 to 140 dB generally do not appear to induce strong behavioral responses in pinnipeds in water, but behavioral effects, including avoidance, become more likely in the range between 120 to 160 dB, and most marine mammals showed some, albeit variable, responses to sound between 140 to 180 dB. Wood *et al.* (2012) later adapted the approach identified in Southall *et al.* (2007) to develop a probabilistic scale for marine mammal taxa at which 10 percent, 50 percent, and 90 percent of individuals exposed are assumed to produce a behavioral response. For many marine mammals, including pinnipeds, these response rates were set at sound pressure levels of 140, 160, and 180 dB respectively.

Thresholds based on TTS have been used as a proxy for Level B harassment (*i.e.,* 70 FR 1871, January 11, 2005; 71 FR 3260, January 20, 2006; and 73 FR 41318, July 18, 2008). Southall *et al.* (2007) derived TTS thresholds for pinnipeds based on 212 dB peak and 171-dB SELcum. Kastak *et al.* (2005) found exposures resulting in TTS in pinnipeds ranging from 152 to 174 dB (183–206 dB SEL). Kastak *et al.* (2008) demonstrated a persistent TTS, if not a PTS, after 60 seconds of 184 dB SEL. Kastelein *et al.* (2012) found small but statistically significant TTSs at approximately 170 dB SEL (136 dB, 60 min) and 178 dB SEL (148 dB, 15 min). Finneran (2015) summarized these and others studies, which NMFS (2018a) has used to develop TTS threshold for pinnipeds of 199 dB SELcum.

Based on the lack of a disturbance response or any other reaction by sea otters to the 1980s playback studies and the absence of a clear pattern of disturbance or avoidance behaviors attributable to underwater sound levels up to about 160 dB resulting from

vibratory pile driving and other sources of similar low-frequency broadband noise, we assume 120 is not an appropriate behavioral response threshold for sea otters exposed to continuous underwater noise. We assume, based on the work of NMFS (2018a), Southall *et al.* (2007), and others described here, that either a 160-dB threshold or a 199-dB SELcum threshold is likely to be the best predictor of Level B take of sea otters for continuous noise exposure, using southern sea otters and pinnipeds as a proxy, and based on the best available data.

We compared a 199-dB SELcum threshold for TTS from NMFS (2018a) with a 160-dB behavioral response threshold (NMFS undated) to determine the most appropriate criteria for identifying Level B take from the proposed activities. We first evaluated the probability of reaching TTS at 199 dB SELcum given the projects' predicted sound levels using calculations in user spreadsheets developed by NMFS (2018b; available at *http://www.nmfs.noaa.gov/pr/acoustics/guidelines.htm*). We used the same assumptions presented by Hilcorp to estimate sound production for the proposed 3D seismic surveys. The source levels were estimated at 217 dB peak, 185 dB SEL, and 197 dB rms at a distance of 100 m. A sound source verification (SSV) conducted for similar seismic work in Cook Inlet using a 2,400-cui source array indicated a 160-dB zone extended 7.33 km (4.5 mi) from the source (Austin and Warner 2013; 81 FR 47240, July 20, 2016). We assumed the maximum sound pressure level of 217.97 dB at 1 m, the default 1-kHz frequency weighting adjustment for seismic, and a transmission loss coefficient of 15 for shallow water. The model output predicts that pinnipeds within 133 m (436 ft) of the sound source could experience TTS within 60 seconds. Those remaining within 882 m (0.54 mi) of the sound source for 17 minutes could experience TTS, as could those within 1.2 km (0.75 mi) for 28 minutes, 1.7 km (1.1 mi) for 43 minutes, and those remaining within 2.3 km (1.4 mi) for 72 minutes or longer.

For Hilcorp's 3D seismic work, a 160-dB threshold predicts an otter would experience Level B take at 7.3 km (4.5 mi) from the source regardless of duration of exposure. A 199-dB SELcum threshold predicts sea otters at 7.3 km (4.5 mi) from the source would experience TTS after 6.7 hours of exposure. For an otter within 7.3 km (4.5 mi) of a sound source, if duration of exposure is less than 6.7 hours, the 160-dB threshold will overestimate exposure compared to the 199-dB SELcum threshold. Beyond 7.3 km (4.5 mi), the 160-dB threshold will underestimate take for otters exposed to noise for periods longer than 6.7 hours. The normal work period for Hilcorp's 3D seismic will be 2.5-hour intervals based on the slack tide periods. This suggests that the 160-dB threshold overestimates otters exposed to a single interval of work. However, multiple intervals can be conducted in a day, and if both the work and the otters were to remain stationary, otters could be exposed for a longer overall duration, causing the 160-dB threshold to underestimate take.

In reality, neither the otters, nor the seismic vessels are stationary. Sea otters can swim at average speeds of 5.5 km/h (3.4 mi/hr) (Garshelis and Garshelis 1984) and maximum speeds up to 9 km/h (5.6 mi/hr) (UMMZ 2007). At those rates of travel, a sea otter could easily depart an ensonification zone prior to cumulative TTS exposure. For instance, an otter would experience cumulative TTS after remaining 882 m (0.54 mi) from a sound source for 17 minutes; alternately, in that time, the otter could swim 1.6 km (1 mi) away at a normal pace. If all otters did this, a 199-dB SELcum threshold for TTS would overestimate take. However, an otter may not be willing to travel beyond the boundaries of its normal range. Annual home range sizes of adult sea otters are relatively small, with males ranging from 10.5–28.5 km^2 (4–11 mi^2) and adult females from a few to 62 km^2 (24 mi^2); juveniles may move greater distances between resting and foraging areas (Lensink 1962; Kenyon 1969; Garshelis and Garshelis 1984; Ralls *et al.* 1988; Jameson 1989; Riedman and Estes 1990; Tinker and Estes 1996). Territorial adult males usually remain within a few kilometers of their established feeding grounds (Kenyon 1981). Based on these patterns, adult females and subadults are expected to be able to effectively avoid TTS due to cumulative exposure from up to the full four-interval set of seismic surveys in a 24-hour period, whereas territorial males might not. For the territorial males, a 160-dB threshold could underestimate take.

In conclusion, a 199-dB SELcum exposure threshold is likely to be more accurate than a 160-dB single level threshold when the behaviors of individual otters can be closely monitored. However, a 160-dB threshold will generate similar estimates of take from Hilcorp's 3D seismic surveys and will overestimate take for quieter sound sources. Given the lack of TTS data specific to otters, the 160-dB threshold provides a measure of insurance against underestimation of the possible risks to otters, and provides greater practicability for application of mitigation and monitoring.

Exposure to impulsive sound levels greater than 160 dB can elicit behavioral changes in marine mammals that might be detrimental to health and long-term survival where it disrupts normal behavioral routines. Thus, using information available for other marine mammals as a surrogate, and taking into consideration the best available information about sea otters, the Service has set the received sound level under water of 160 dB as a threshold for Level B take by disturbance for sea otters for this proposed ITR (based on Ghoul and Reichmuth 2012a,b; McShane *et al.* 1995; NOAA 2005; Riedman 1983; Richardson *et al.* 1995, and others). Exposure to unmitigated in-water noise levels between 125 Hz and 32 kHz that are greater than 160 dB will be considered by the Service as Level B take; thresholds for potentially injurious Level A take will be 232 dB peak or 203 dB SEL for impulsive sounds and 219 dB SEL for continuous sounds (Table 5).

TABLE 5—SUMMARY OF NORTHERN SEA OTTER ACOUSTIC THRESHOLDS FOR UNDERWATER SOUND IN THE FREQUENCY RANGE 125 Hz–32 kHz

Marine mammals	Injury (Level A) threshold		Disturbance (Level B) threshold
	Impulsive [1]	Non-impulsive [1]	All
Sea otters	232 dB peak; 203 dB XXXXX	219 dB SELcum	160 dB rms.

[1] Based on NMFS acoustic criteria for otariid pinnipeds (NMFS 2018a).

Noise-Generating Activities

The components of the proposed activities that have the greatest likelihood of exposing sea otters to underwater noise capable of causing Level A or Level B take include geophysical surveys, pile driving, drilling activities, and anchor handling associated with pipeline construction. Vessel and aircraft operations also have the ability to expose otters to sound and human activities that may cause disturbance.

Geophysical Surveys—Airgun arrays used in seismic surveys to locate potential hydrocarbon-bearing geologic formations typically produce most noise energy in the 10- to 120-Hertz (Hz) range, with some energy extending to 1,000 Hz (Richardson *et al.* 1995). There is no empirical evidence that exposure to pulses of airgun sound is likely to cause serious injury or death in any marine mammal, even with large arrays of airguns (Southall *et al.* 2007). However, with source levels of up to 260 dB, the potential of seismic airgun arrays to acoustically injure marine mammals at close proximity must be considered.

In addition to seismic surveys for hydrocarbon-bearing formations, geophysical surveys are conducted to produce imagery of sea-floor surfaces and substrates on a finer spatial scale. These images aid in the selection of sites for structures such as docks or submerged pipelines and the identification of obstacles or hazards within the substrate that may interfere with exploratory drilling. Sounds produced by the instruments used for these surveys vary in terms of frequency bands, source levels, repetition rates, and beam widths. Peak-to-peak operating frequencies range from roughly 300 Hz to several hundred kHz and source levels ranging from 170 to 240 dB (Crocker and Fratantonio 2016).

Pipe/Pile Driving—During the course of pile driving, a portion of the kinetic energy from the hammer is lost to the water column in the form of sound. Levels of underwater sounds produced during pile driving are dependent upon the size and composition of the pile, the substrate into which the pile is driven, bathymetry, physical and chemical characteristics of the surrounding waters, and pile installation method (Illingworth and Rodkin 2007, 2014; Denes *et al.* 2016).

Both impact and vibratory pile installation produce underwater sounds of frequencies predominantly lower than 2.5 kHz, with the highest intensity of pressure spectral density at or below 1 kHz (Denes *et al.* 2016; Dahl *et al.* 2015; Illingworth and Rodkin 2007). Source levels of underwater sounds produced by impact pile driving tend to be higher than for vibratory pile driving; however, both methods of installation can generate underwater sound levels capable of causing behavioral disturbance or hearing threshold shift in marine mammals.

Drilling Operations—For drilling operations, two project components have the potential to disturb sea otters: Installing the drive pipe at each well prior to drilling; and vertical seismic profiling (VSP) operations that may occur at the completion of each well drilling. The types of underwater sounds generated by these activities are discussed in ''Pile Driving'' and ''Geophysical Surveys,'' respectively.

Lattice-legged jack-up drill rigs are relatively quiet because the lattice legs limit transfer of noise generated from the drilling table to the water (Richardson *et al.* 1995, Spence *et al.* 2007). Further, the drilling platform and other noise-generating equipment is located above the ocean surface so there is very little surface contact with the water compared to drill ships and semi-submersible drill rigs. Hydro-acoustic measurements of the *Spartan 151* resulted in a source level of 137 dB (Marine Acoustics, Inc. 2011). The survey results showed that this noise was largely associated with the diesel engines used as power generators. Generators used on the *Endeavour,* another lattice-legged jack-up rig operating in Cook Inlet, are mounted on pedestals specifically to reduce noise transfer through the infrastructure, and they are enclosed in an insulated engine room. The results from a sound source verification done by Illingworth and Rodkin (2014) indicated that noise generated from drilling and generators were below ambient noise, 128 dB at distances of 30 to 70 m. Thus, neither drilling itself nor the running of pumps and generators on the drill rig is expected to produce underwater noise levels that will affect sea otters.

Aircraft Overflights—Richardson *et al.* (1995) presented analyses of recordings of sounds produced by a Bell 212 helicopter. The estimated source levels for two of the flights were 149 and 151 dB re 1 μPa-m, and underwater received levels were 109 dB when the aircraft flew at an altitude of 152 m (500 ft) and 107 dB at a flight altitude of 305 m (1,000 ft). Received sound levels in air at the water surface would be 81 and 75 dB re 20 μPa for flights at 152 and 305 m (500 and 1,000 ft), respectively.

Rig Towing and Anchor Handling—The characteristics of sounds produced by vessels are a product of several variables pertaining to the specifications of the vessel, including the number and type of engines, propeller shape and size, and the mechanical condition of these components. Operational status of the vessel, such as towing heavy loads or using bow thrusters, can significantly affect the levels of sounds emitted by the same vessel at different times (Richardson *et al.* 1995). Two components of the proposed activities, towing of Hilcorp's drilling rig and the manipulation of anchors for the laying of the AGDC pipeline, will involve vessel operations that are likely to be substantially louder than normal transit.

Data from recent exploratory drilling activities in the Chukchi and Beaufort seas indicate that anchor handling can intermittently produce sounds likely greater than 190 dB; the source level of the anchor-handling vessel was estimated to be 188 dB (LGL/JASCO/Greeneridge 2014). The same study reported measurements of two configurations of tugs towing drilling rigs, the average of which was 190.5 dB.

Airborne Sounds

The NMFS (2018a) guidance neither addresses thresholds for preventing injury or disturbance from airborne noise, nor provides thresholds for avoidance of Level B take. However, a review of literature by Southall *et al.* (2007) suggested thresholds for PTS and TTS for sea lions exposed to non-pulsed airborne noise of 172.5 and 159 dB re $(20\ \mu Pa)^2$-s SEL. Behavioral responses to overflights are addressed in *Responses to Activities.*

Conveyance of underwater noise into the air is of little concern since the effects of pressure release and interference at the water's surface scatter and reflect sound (similar to a Lloyd's mirror) which reduces underwater noise transmission into the air. For activities that create both in-air and underwater sounds, such as pile driving, we will estimate take based on parameters for underwater noise transmission. Because sound energy travels more efficiently through water than through air, this estimation will also account for exposures to animals at the surface.

Aircraft are the most significant source of airborne sounds. Proposed flights are to be conducted at an altitude of 305 m (1,000 ft) except during takeoff and landing. At the surface of the water, the received sound level from a helicopter flown at this altitude is roughly 75 dB re 20 μPa (see ''Noise-Generating Activities''), and so threshold shift is extremely unlikely.

Loud screams are used to communicate between pups and

mothers at the surface (McShane *et al.* 1995), but sea otters do not appear to communicate vocally under water, and they do not use sound to detect prey. Although masking of these crucial airborne calls is possible, the duration of sound from aircraft will be brief and therefore unlikely to result in separation of females from pups.

Effects on Habitat and Prey

Habitat areas of significance for sea otters exist in the project area. Sea otter critical habitat was designated under the ESA (74 FR 51988, October 8, 2009). In Cook Inlet, critical habitat occurs along the western shoreline south of approximately Redoubt Point. It extends from mean high tide line out to 100 m (328.1 ft) from shore or to the 20-m (65.6-ft) depth contour. Physical and biological features of critical habitat essential to the conservation of sea otters include the benthic invertebrates (urchins, mussels, clams, etc.) eaten by otters and the shallow rocky areas and kelp beds that provide cover from predators. Other important habitat in the applicant's project area includes outer Kamishak Bay between Augustine Island and Iniskin Bay within the 40-m (131-ft) depth contour where high densities of otters have been detected.

The applicant's proposed activities include drilling, dredging, trenching, pile driving, and dock construction. These activities would change the physical characteristics of localized areas of habitat. Construction would result in seafloor disturbance and temporary increases in water column turbidity. Docks can increase seafloor shading, which affects the amount of light penetration on the seafloor. Water quality in may be affected by drilling-related discharges within limits permitted by the State of Alaska.

Sampling efforts at borrow and disposal areas before and after dredging activity have produced mixed results in terms of whether dredging causes significant changes to the productivity and diversity of infaunal benthic and epibenthic invertebrate communities (Fraser *et al.,* 2017; Angonesi *et al.* 2006). The areas where dredging activities are proposed include a materials loading facility at Nikiski and along the planned AGDC pipeline route between Nikiski and Beluga; the proposed disposal area is just west of Nikiski. This is beyond the northern limit of sea otter distribution in Cook Inlet, so effects of dredging upon invertebrate communities would not affect availability of prey to sea otters.

In addition to the disturbances outlined above to sea otters or their designated critical habitat, survey and construction activities could affect sea otter habitat in the form of impacts to prey species. The primary prey species for sea otters are sea urchins, abalone, clams, mussels, crabs, and squid (Tinker and Estes 1999). When preferential prey are scarce, otters will also eat kelp, crabs, clams, turban snails, octopuses, barnacles, sea stars, scallops, rock oysters, fat innkeeper worms, and chitons (Riedman and Estes 1990).

Limited research has been conducted on the effects of noise on invertebrates (Normandeau Associates, Inc. 2012). Christian *et al.* (2003) concluded that there were no obvious effects from seismic signals on crab behavior and no significant effects on the health of adult crabs. Pearson *et al.* (1994) had previously found no effects of seismic signals upon crab larvae for exposures as close as 1 m (3.3 ft) from the array, or for mean sound pressure as high as 231 dB. Pearson *et al.* (1994) did not observe any statistically significant effects on Dungeness crab (*Cancer magister*) larvae shot as close as 1 m from a 231-dB source. Further, Christian *et al.* (2004) did not find any behavioral or significant health impacts to snow crabs (*Chionoecetes opilio*) exposed to seismic noise. The only effect noted was a reduction in the speed of egg development after exposure to noise levels (221 dB at 2 m), far higher than what bottom-dwelling crabs could be exposed to by seismic guns. Invertebrates such as mussels, clams, and crabs do not have auditory systems or swim bladders that could be affected by sound pressure. Squid and other cephalopod species have complex statocysts (Nixon and Young 2003) that resemble the otolith organs of fish that may allow them to detect sounds (Budelmann 1992).

Some species of invertebrates have shown temporary behavioral changes in the presence of increased sound levels. Fewtrell and McCauley (2012) reported increases in alarm behaviors in wild-caught captive reef squid (*Sepioteuthis australis*) exposed to seismic airguns at noise levels between 156–161 dB. Additionally, captive crustaceans have changed behaviors when exposed to simulated sounds consistent with those emitted during seismic exploration and pile-driving activities (Tidau and Briffa 2016).

In general, there is little knowledge regarding hearing in marine invertebrates or how invertebrates are affected by high noise levels (Hawkins and Popper 2012). A review of literature pertaining to effects of seismic surveys on fish and invertebrates (Carroll *et al.* 2016) noted that there is a wide disparity between results obtained in field and laboratory settings. Some of the reviewed studies indicate the potential for noise-induced physiological and behavioral changes in a number of invertebrates. However, changes were observed only when animals were housed in enclosed tanks and many were exposed to prolonged bouts of continuous, pure tones. We would not expect similar results in open marine conditions. Given the short-term duration of sounds produced by each component of the proposed work, it is unlikely that noises generated by survey and construction activities will have any lasting effect on sea otter prey.

Potential Impacts From an Oil Spill or Unpermitted Discharge

Sea otters could be affected by accidentally spilled diesel fuel from a vessel associated with proposed activities or from a spill or leak from a pipeline or well. An oil spill or unpermitted discharge is an illegal act, and ITRs do not authorize take of sea otters caused by illegal or unpermitted activities. Typical spills that may result from the proposed activities are relatively small in scale and are not likely to affect otters. A large spill could affect large numbers of otters, but these events are rare.

Information on oil spills throughout the range of the listed sea otter from 2006 to 2010 indicates that an average of four spills of crude oil occurred each year in the marine environment (ADEC 2014). Crude oil spills ranged in size from less than 4 to 760 liters (L) or 1 to 200 gallons (gal), with a mean size of about 41.8 L (11 gal). Spills of non-crude oil averaged 62 per year, ranging in size from less than 4 to 24,320 L (1 to 6,400 gal). The majority of the non-crude oil spills were small, with a mean size of about 380 L (100 gal) and a median size of 4 L (1 gal). These events will have only localized impacts to habitat and are unlikely to affect sea otters.

Effects of a larger spill would depend on the size and location of a spill and meteorological conditions at the time. Spilled fuel would rapidly be spread by waves, currents, the prevailing winds. Lighter, volatile components of the fuel would evaporate to the atmosphere almost completely in a few days. Rougher seas, high wind speeds, and high temperatures also tend to increase the rate of evaporation and the proportion of fuel lost by this process (Scholz *et al.* 1999). Heavier components of fuel may drift, wash ashore, or settle into the water column and the seabed.

If a large oil spill were to occur, the most likely impact upon sea otters

would be mortality due to exposure to and ingestion of spilled oil. Contamination of sea otter habitat, their invertebrate prey, and prey habitat would most likely result in a range of impacts ranging from sublethal to lethal, depending on a wide variety of factors.

Sea otters are critically dependent upon their fur for thermoregulation, and oiling severely reduces fur thermoregulatory performance. Thermal conductance (an index of insulative quality) of marine mammal fur was significantly decreased after oiling, with sea otter pup fur being the most affected (Kooyman *et al.* 1976). A live otter would experience thermal stress, including decreased body temperature and significantly increased metabolic rate, as well as increased energy expenditure through additional grooming attempts (Kooyman *et al.* 1976; Costa and Kooyman, 1982, 1984; Engelhardt 1983). Sea otters may also ingest oil through grooming of oiled fur and through ingestion of contaminated prey. Sea otters have exhibited hemorrhagic gastrointestinal lesions (Baker *et al.* 1981), lung, liver, and kidney damage, DNA damage, and altered blood chemistry (Lipscomb 1996; Bickham 1998) after oil ingestion.

Spills may cause direct and indirect effects on critical habitat elements for sea otters, particularly kelp forests. For example, the rocky shoreline recovery after the Exxon *Valdez* oil spill took a decade or more (Peterson 2003). The initial loss of the rockweed *Fucus gardneri* triggered a community cascade, including blooms of ephemeral green algae caused by loss of *Fucus* on rocks, followed by loss of grazing and predatory gastropods. *Fucus* recovery was constrained; without canopy cover, *Fucus* recruits were subject to desiccation. Even after apparent recovery of *Fucus,* previously oiled shores exhibited more rockweed mortality caused by the senescence of the single-aged stand (Peterson 2003). These studies and others such as those after the Torrey Canyon oil spill in the United Kingdom (Peterson 2003) point out the importance of indirect interactions to the continuity of rocky intertidal communities and the lengthy recovery time after severe oiling. All of these effects may result in population-level impacts to sea otters, as demonstrated by the very large Exxon *Valdez* oil spill (Albers 2003), with a reduction in otter survival rates still evident 9 years post-spill (Monson 2000).

Oil and gas operators in Cook Inlet are required to prepare spill prevention and response plans to minimize the risk of a spill and reduce impacts, should one occur. These efforts help ensure that spills and unpermitted discharges of contaminants are unlikely. We do not anticipate effects to sea otters as a result of oil spills from this activity, and spills are not discussed further in this document.

Collisions

Vessel collisions with marine mammals can result in death or serious injury. Wounds resulting from ship strike may include massive trauma, hemorrhaging, broken bones, or propeller lacerations (Knowlton and Kraus 2001). An animal at the surface may be struck directly by a vessel, a surfacing animal may hit the bottom of a vessel, or an animal just below the surface may be cut by a vessel's propeller. Mortality associated with boat strike has been identified from recovery of carcasses with lacerations indicative of propeller injuries (*e.g.,* Wild and Ames 1974; Morejohn *et al.* 1975). From 1998 to 2001, boat strike was identified as the cause of death for 5 of 105 southern sea otter mortalities (Kreuder *et al.* 2003). From 2006 through 2010, evidence indicates that 11 southern sea otters were likely struck by boats (USGS and California Department of Fish and Game, unpublished data cited in 77 FR 59211–59220, September 26, 2012). From January 2003 to May 2013, researchers recovered 35 southern sea otters with trauma consistent with impact from a boat hull or propeller. These data suggest a rate of boat-strike mortality in California of 2.6 otters per year, or about 0.1 percent of the population size.

Boat strike has been documented as a cause of death across all three stocks of northern sea otters in Alaska. Since 2002, the Service has undertaken a health and disease study of sea otters in Alaska in which the Service conducts necropsies on sea otter carcasses to determine cause of death, disease incidence, and status of general health parameters. Of 1,433 necropsies conducted during 24 years, boat strike or blunt trauma was identified as a definitive or presumptive cause of death in 64 cases (4 percent) (USFWS unpublished data). It has been determined in most of these cases that, while trauma was the ultimate cause of death, there was a contributing factor, such as disease or biotoxin exposure, which incapacitated the animal and made it more vulnerable to boat strike (USFWS 2014).

In Alaska, the annual rate of mortality from boat strike was similar to that reported for California: 2.7 otters per year (USFWS unpublished data). However, these otters belong to much larger and more dispersed populations where carcass recovery is lower. Instances of vessel collision are likely to be underreported, and the probability of collision is unknown.

Likelihood of vessel strikes involving sea otters appears to be primarily related to vessel speed. Most collision reports have come from small, fast-moving vessels (NMFS 2003). The severity of injuries to marine mammals during a boat strike also depends on vessel speed, with the probability of death or serious injury increasing as vessel speed increases (Laist *et al.* 2001; Vanderlaan and Taggart 2007). Because sea otters spend a considerable portion of their time at the surface of the water, they are typically visually aware of approaching boats and are able to move away if a vessel is not traveling too quickly.

The probability of a sea otter/vessel collision involving the proposed activities in Cook Inlet is very low for three reasons: First, most of the work will occur in lower-density regions of Cook Inlet; second, the project work will involve slow-moving, noisy vessels that sea otters will easily avoid; and third, the proposed activities will constitute only a small fraction of the total level of vessel traffic in the region. The high level of traffic in Cook Inlet increases the likelihood that otters in the project area are accustomed to avoiding vessels and activities similar to the activities proposed.

The AGDC pipeline work and work by Hilcorp and Harvest on maintenance of existing facilities will be conducted in middle Cook Inlet, in areas that are outside of the normal range of sea otters. The unusual occurrence of otters in middle Cook Inlet makes vessel collisions extremely unlikely. Hilcorp and Harvest will conduct their 3D seismic work in offshore areas of lower Cook Inlet where otter densities are also low. They will conduct 2D seismic work along the eastern shoreline of lower Cook Inlet where densities are higher, but vessel speeds during the proposed activities will be slow. Hilcorp's seismic vessels would travel at approximately 4 knots (kn) or 7.4 km/hr while towing seismic survey gear and a maximum of 4.5 kn (8.3 km/hr) while conducting geophysical surveys. Vessel speed during rig towing will generally be less than 5 kn. AGDC's pipeline construction operations will proceed at similar slow speeds. Anchor handling will occur at about 3 kn. For comparison, freighters in Cook Inlet travel at 20 to 24 kn (Eley 2006), and small recreational vessels may travel at 40 kn.

The applicant's support vessels and vessels in transit will travel at faster speeds; for example, Hilcorp's

maintenance activities will require the use of dive vessels, typically ranging up to 21 m (70 ft) in length and capable of approximately 7 knots (13 km/hr). The risk of collision is thus reduced, but not eliminated, by the predominance of slow-moving vessel work in areas of low density.

Commercial and recreational vessels are much more common in both space and time than are geophysical survey activities, drilling support operations, and pipeline work. Based on U.S. Coast Guard records and other local sources of information compiled by Eley (2006), 704 large vessels, other than fuel barges in domestic trade, called at Cook Inlet ports from January 1, 2005, through July 15, 2006. Almost two-thirds (65 percent) of the calls were made by container vessels, cargo, or ferries. Twenty-nine percent (29 percent) of the vessel traffic was gas or liquid tankships calling primarily at Nikiski. Bulk carriers and general cargo ships represented 6 percent. Tugs and fishing and passenger vessels combined represented 2 percent of the Cook Inlet vessel traffic. Tugs made approximately 150 fuel barge transits a year, assisted in docking and undocking ships in Nikiski and Anchorage, and moved miscellaneous deck and gravel barges in and out of the Port of Anchorage. Although small vessels are less common than larger ships, they are the most likely source of collision due to faster speeds and their presence in shallow water where sea otters are common. In 2005, there were 570 commercial fishing vessels registered in the Cook Inlet salmon/groundfish fleet. Of these, 86 percent were 31–40 ft in length. Vessels in this size class typically travel at up to 30 kn while in transit. The high level of ship traffic in Cook Inlet allows many sea otters in Cook Inlet to habituate to vessels. This will reduce risk of collision for the project activities when vessels are in transit.

Although the likelihood of a project vessel striking a sea otter is low, we intend to require mitigation measures that we believe will reduce the risk of ship strike. We anticipate that vessel collisions involving a seismic-data-acquisition vessel towing gear, tugs towing rigs, or vessels conducting geophysical operations are unlikely given the rarity of documented collisions, the low densities of otters in most of the project areas, the frequent vessel traffic to which otters have become accustomed, and the slow vessel speeds. Vessels in transit and support vessels travelling at greater rates of speed are more likely to cause collisions.

Mitigation measures for reducing probability of ship strike include speed reductions during periods of low visibility, required separation distances from observed otters, avoidance of nearshore travel, and use of navigation channels, when practicable. We believe these measures will further reduce the risk of collision. Given the required mitigation measures, the relatively slow speed of the vessel towing gear, the presence of marine mammal observers, and the short duration of many of the activities, we believe that the possibility of ship strike is discountable. No incidental take resulting from ship strike is anticipated, and this potential effect of the specified activity will not be discussed further in the following analysis.

Characterizing Take

In the previous section, we discussed the components of the proposed action that have the potential to affect sea otters. Here we describe and categorize the physiological and behavioral effects that can be expected based on documented responses to human activities observed during sea otter studies. We also discuss how these behaviors are characterized under the MMPA.

An individual sea otter's reaction to a human activity will depend on its prior exposure to the activity, its need to be in the particular area, its physiological status, or other intrinsic factors. The location, timing, frequency, intensity, and duration of the encounter are among the external factors that will also influence the animal's response.

Relatively minor reactions such as increased vigilance or a short-term change in direction of travel are not likely to disrupt biologically important behavioral patterns and are not considered take by harassment. These types of responses typify the most likely reactions of the majority of sea otters that will be exposed to the applicant's activities.

Reactions capable of causing injury are characterized as Level A harassment events. Examples include separation of mothers from young or repeatedly flushing sea otters from a haulout. Exposure to noise capable of causing PTS is also considered take by Level A harassment.

Intermediate reactions that disrupt biologically significant behaviors are considered Level B harassment under the MMPA. The Service has identified the following sea otter behaviors as indicating possible Level B take:

- Swimming away at a fast pace on belly (*i.e.,* porpoising);
- Repeatedly raising the head vertically above the water to get a better view (spyhopping) while apparently agitated or while swimming away;
- In the case of a pup, repeatedly spyhopping while hiding behind and holding onto its mother's head;
- Abandoning prey or feeding area;
- Ceasing to nurse and/or rest (applies to dependent pups);
- Ceasing to rest (applies to independent animals);
- Ceasing to use movement corridors along the shoreline;
- Ceasing mating behaviors;
- Shifting/jostling/agitation in a raft so that the raft disperses;
- Sudden diving of an entire raft;
- Flushing animals off a haulout.

This list is not meant to encompass all possible behaviors; other situations may also indicate Level B take. It is also important to note that depending on the duration and severity of the above-described behaviors, such responses could constitute take by Level A harassment, *e.g.,* repeatedly flushing sea otters from a haulout versus a single flushing event.

Direct and Indirect Effects

The reactions of wildlife to disturbance can range from short-term behavioral changes to long-term impacts that affect survival and reproduction. Most sea otters will respond to human disturbance with nonlethal reactions that are similar to antipredator responses (Frid and Dill 2002). Sea otters are susceptible to predation, particularly from killer whales and eagles, and have a well-developed antipredator response to perceived threats. Sea otters will swim away, dive, or hide among rocks or kelp, and will sometimes spyhop (vertically raise its head out of the water, presumably to look around) or splash when threatened. Limbaugh (1961) reported that sea otters were apparently undisturbed by the presence of a harbor seal (*Phoca vitulina*), but they were quite concerned with the appearance of a California sea lion. They demonstrated their fear by actively looking above and beneath the water when a sea lion was swimming nearby.

Although an increase in vigilance or a flight response is nonlethal, a tradeoff occurs between risk avoidance and energy conservation (Frid and Dill 2002). For example, southern sea otters in areas with heavy recreational boat traffic demonstrated changes in behavioral time budgeting showing decreased time resting and changes in haulout patterns and distribution (Benham *et al.* 2005; Maldini *et al.* 2012). In an example described by Pavez

et al. (2015), South American sea lions (*Otaria byronia*) visited by tourists exhibited an increase in the state of alertness and a decrease in maternal attendance and resting time on land, thereby potentially reducing population size. In another example, killer whales (*Orcinus orca*) that lost feeding opportunities due to boat traffic faced a substantial (18 percent) estimated decrease in energy intake (Williams *et al.* 2006). Such disturbance effects can have population-level consequences. Increased disturbance rates have been associated with a decline in abundance of bottlenose dolphins (*Tursiops* sp.) (Bejder *et al.* 2006; Lusseau *et al.* 2006).

These examples illustrate direct effects on survival and reproductive success, but disturbances can also have indirect effects. When disturbed by noise, animals may respond behaviorally (*e.g.,* escape response), as well as physiologically (*e.g.,* increased heart rate, hormonal response) (Harms *et al.* 1997; Tempel and Gutierrez 2003). In the absence of an apparent behavioral response, an animal exposed to noise disturbance may still experience stress and direct energy away from fitness-enhancing activities such as feeding and mating. The energy expense and physiological effects could ultimately lead to reduced survival and reproduction (Gill and Sutherland 2000; Frid and Dill 2002). Changes in behavior from anthropogenic disturbance can also include latent agonistic interactions between individuals (Barton *et al.* 1998). Chronic stress can lead to weakened reflexes, lowered learning responses (Welch and Welch 1970; van Polanen Petel *et al.* 2006), compromised immune function, decreased body weight, and abnormal thyroid function (Selye 1979).

The type and extent of response may be influenced by intensity of the disturbance (Cevasco *et al.* 2001), the extent of previous exposure to humans (Holcomb *et al.* 2009), the type of disturbance (Andersen *et al.* 2012), and the age and/or sex of the individuals (Shaughnessy *et al.* 2008; Holcomb *et al.* 2009). Despite the importance of understanding the effects of disturbance, few controlled experiments or field observations have been conducted on sea otters to address this topic.

Responses to Activities

The available studies of sea otter behavior suggest that sea otters may be more resistant to the effects of sound disturbance and other human activities than some other marine mammals. For example, at Soberanes Point, California, Riedman (1983) examined changes in the behavior, density, and distribution of southern sea otters that were exposed to recorded noises associated with oil and gas activity. The underwater sound sources were played at a level of 110 dB and a frequency range of 50 to 20,000 Hz and included production platform activity, drillship, helicopter, and semi-submersible sounds. Riedman (1983) also observed the sea otters during seismic airgun shots fired at decreasing distances from the nearshore environment (50, 20, 8, 3.8, 3, 1, and 0.5 nautical miles) at a firing rate of 4 shots per minute and a maximum air volume of 4,070 cubic inches (in^3). Riedman (1983) observed no changes in the presence, density, or behavior of sea otters as a result of underwater sounds from recordings or airguns, even at the closest distance of 0.5 nautical miles (<1 km or 0.6 mi). However, otters did display slight reactions to airborne engine noise. Riedman (1983, 1984) also monitored the behavior of sea otters along the California coast while they were exposed to a single 100-in^3 airgun and a 4,089-in^3 airgun array. Sea otters did not respond noticeably to the single airgun, and no disturbance reactions were evident when the airgun array was as close as 0.9 km (0.6 mi).

The limited response of sea otters to sound is probably due to three factors: First, sea otters use habitat where underwater noise exposure is limited; second, sea otters use sound differently than many other marine mammals; and third, sea otters show a high degree of behavioral plasticity in response to disturbance.

Sea otters spend from 30 to 80 percent of their time each day at the surface of the water resting and grooming (Riedman 1983, 1984; Bodkin *et al.* 2004; Wolt *et al.* 2012). While at the surface, turbulence from wind and waves attenuate noise more quickly than in deeper water, reducing potential noise exposure (Greene and Richardson 1988; Richardson *et al.* 1995). Additionally, Lloyd's mirror effects limit the transference of sound from water to air. A sea otter with its head above water will be exposed to only a small fraction of the sound energy travelling through the water beneath it. Thus, the amount of total time spent at the surface may help limit sea otters' exposure during noise-generating operations.

Many marine mammals depend on acoustic cues for vital biological functions, such as orientation, communication, locating prey, and avoiding predators. However, sea otters do not rely on sound to orient themselves, locate prey, or communicate underwater. Sea otters use sound for communication in air (especially mothers and pups; McShane *et al.* 1995) and may avoid predators by monitoring underwater sound. Davis *et al.* (1987) documented sea otters retreating from simulated killer whale vocalizations. Otters are not known to vocalize underwater and do not echolocate; therefore, masking of communications by anthropogenic sound is less of a concern than for other mammals.

Sea otters generally show a high degree of tolerance to noise. In another study using prerecorded sounds, Davis *et al.* (1988) exposed both northern sea otters in Simpson Bay, Alaska, and southern sea otters in Morro Bay, California, to a variety of airborne and underwater sounds, including a warble tone, sea otter pup calls, killer whale calls, airhorns, and an underwater acoustic harassment system designed to drive marine mammals away from crude oil spills. The sounds were projected at a variety of frequencies, decibel levels, and intervals. The authors noted that certain acoustic stimuli could cause a startle response and result in dispersal. However, the disturbance effects were limited in range (no responses were observed for otters approximately 100–200 m (328–656 ft) from the source of the stimuli), and habituation to the stimuli was generally very quick (within hours or, at most, 3 to 4 days).

Southern sea otters in an area with frequent railroad noise appeared to be relatively undisturbed by pile-driving activities, many showing no response and generally reacting more strongly to passing vessels than to the sounds of pile-driving equipment (ESNERR 2011; ESA 2016). Additionally, many of the otters who displayed a reaction behavior during pile driving did so while their heads were above the surface of the water, suggesting that airborne noise was as important as, and possibly more important than underwater noise in prompting the animals' reactions. When sea otters have displayed behavioral reactions in response to acoustic stimuli, these responses were often short-lived; the otters resumed normal activities soon after a new sound was introduced (Davis *et al.* 1987, 1988).

Among sea otters, exposure to moderate to high levels of underwater noise is not likely to cause injury and mortality from stranding or excessive nitrogen accumulation, both of which are concerns for other species of marine mammals, but the possibility of hearing loss cannot be discounted. The consequences of hearing loss among otters remains unknown. We have much more information about the observable

responses of sea otters to human activities.

Stimuli from shoreline construction activities, aircraft, and vessel traffic, including noise, are likely to cause some level of disturbance. Populations of sea otters in Alaska have been known to avoid areas with heavy boat traffic but return to those same areas during seasons with less traffic (Garshelis and Garshelis 1984). Sea otters in Alaska have shown signs of disturbance (escape behaviors) in response to the presence and approach of survey vessels, including: Otters diving and/or actively swimming away from a boat; hauled-out otters entering the water; and groups of otters disbanding and swimming in multiple different directions (Udevitz *et al.* 1995).

In Cook Inlet, otters were observed riding the tides past a new offshore drilling platform while drilling was being conducted. Otters drifting on a trajectory that would have taken them within 500 m (0.3 mi) of the rig tended to swim to change their angle of drift to avoid a close approach, although noise levels from the work were near the ambient level of underwater noise (BlueCrest 2013).

Sea otter behavior is suggestive of a dynamic response to disturbance, influenced by the intensity and duration of the source. Otters initially abandon areas when disturbed and return when the disturbance ceases. Groups of sea otters in two locations in California showed markedly different responses to kayakers approaching to within specific distances, suggesting a different level of tolerance between the groups (Gunvalson 2011). Benham (2006) found evidence that the otters exposed to high levels of recreational activity may have become more tolerant than individuals in less-disturbed areas.

Some individual otters will habituate to the presence of project vessels, noise, and activity. Sea otters often seem quite tolerant of boats or humans nearby (*e.g.,* Calkins 1979). Sea otters off the California coast showed only mild interest in boats passing within hundreds of meters and appeared to have habituated to boat traffic (Riedman 1983; Curland 1997). Boat traffic, commercial and recreational, is common in Cook Inlet. However, there are seasonal (*i.e.,* temporal) and spatial components to vessel traffic. Both recreational and commercial vessel traffic in Kachemak Bay is much higher than in western Cook Inlet, and all traffic is much higher in summer than in other months. Some sea otters in the area of activity are likely to have already become habituated to vessel traffic and noise caused by vessels, whereas for others, the proposed activities will be a novel experience and will elicit a more intense response.

Some degree of disturbance is also possible from unmitigated aircraft activities. Individual sea otters in Cook Inlet will show a range of responses to noise from low-flying aircraft. Some may abandon the flightpath area and return when the disturbance has ceased. Based on the observed movement patterns of wild sea otters (*i.e.,* Lensink 1962; Kenyon 1969, 1981; Garshelis and Garshelis 1984; Riedman and Estes 1990; Tinker and Estes 1996, and others), we expect that some individuals, independent juveniles, for example, will respond to the proposed activities by dispersing to areas of suitable habitat nearby, while others, especially breeding-age adult males, will not be displaced by overflights. Mitigation measures will stipulate a minimum of 305 m (1,000 ft) flight altitude to avoid harassment of otters.

Given the observed responses of sea otters to sources of disturbance, it is likely that some degree of take by harassment will occur due to underwater noise stimuli associated with the proposed activities. Some otters will likely show startle responses, change direction of travel, disperse from the area, or dive. Sea otters reacting to project activities may expend energy and divert time and attention from biologically important behaviors, such as feeding. Some effects may be undetectable in observations of behavior, especially the physiological effects of chronic and cumulative noise exposure. Air and vessel traffic, commercial and recreational, is routine in Cook Inlet. Construction activities are common. Some sea otters in the area of activity may become habituated to noise caused by the project due to the existing continual air traffic in the area and will have little, if any, reaction to project activities.

Mitigation and Monitoring

If an ITR is issued, it must specify means for effecting the least practicable adverse impact on sea otters and their habitat, paying particular attention to habitat areas of significance, and on the availability of sea otters for taking for subsistence uses by coastal-dwelling Alaska Natives. These proposed measures are outlined in § 18.137 Mitigation.

In evaluating what mitigation measures are appropriate to ensure the least practicable adverse impact on species or stocks and their habitat, as well as subsistence uses, we considered the manner in which, and the degree to which, the successful implementation of the measures are expected to reduce impacts to sea otters, stocks, and their habitat, as well as subsistence uses. We considered the nature of the potential adverse impact being mitigated (likelihood, scope, range), the likelihood the measures will be effective, and the likelihood the measures will be implemented. We also considered the practicability of the measures for applicant implementation (*e.g.,* cost, impact on operations).

To reduce the potential for disturbance from acoustic stimuli associated with the activities, the following mitigation measures will be applied:

- Development of marine mammal monitoring and mitigation plans;
- Establishment of an exclusion zone (EZ) and safety zone (SZ) during noise-generating work;
- Visual mitigation monitoring by designated protected species observers (PSOs);
- Site clearance before startup;
- Shutdown procedures;
- Power-down procedures;
- Ramp-up procedures; and
- Vessel strike avoidance measures.

A marine mammal mitigation and monitoring plan that will identify the specific avoidance and minimization measures an applicant will take to reduce effects to otters. It will describe the project in detail, assess the effects, identify effective means to avoid effects, and describe specific methods for limiting effects when they cannot be avoided.

During ''noise-generating work'' (work that creates underwater sound louder than 160 dB and within the frequency hearing range of sea otters), an applicant will establish and monitor an exclusion zone (EZ). This zone is defined as the area surrounding a sound source in which all operations must be shut down in the event a sea otter enters or is about to enter this zone based on distances to Level A thresholds. Any otter detected within this zone will be exposed to sound levels likely to cause take by Level A harassment. The safety zone (SZ) is an area larger than the EZ and is defined as the area in which otters may experience noise above the Level B exposure threshold. Sea otters observed inside the SZ are likely to be disturbed by underwater noise, and each otter within the SZ will be counted as one Level B take. In the event a sea otter is in or about to enter the zone, operations will be powered down, when practicable, to minimize take. Radii of each SZ and EZ will be specified in each LOA issued under this proposed ITR. The methodology for calculation of the radii will be described in each LOA

and is identified in proposed § 18.137 Mitigation. A minimum 10-m (33-ft) shutdown zone will be observed for all in-water construction and heavy machinery.

PSOs will be stationed on the source vessel or at a suitable vantage point with maximum view of the SZ and EZ. The PSOs will clear the EZ prior to the start of daily activities for which take has been requested or if activities have been stopped for longer than a 30-minute period. The PSOs will ensure the EZ is clear of sea otters for a period of 30 minutes. Clearing the EZ means no sea otters have been observed within the EZ for that 30-minute period. If any sea otters have been observed within the EZ, ramp-up cannot start until the sea otter has left the EZ or has not been observed in the EZ for a 30-minute period prior to the start of the survey.

A power-down procedure will be in place during seismic work. It will involve reducing the number of airguns in use, which reduces the EZ or SZ radius. In contrast, a shutdown procedure occurs when all airgun activity is suspended immediately. During a power down, a single airgun (''mitigation gun'') remains operational, maintaining a sound source with a much-reduced EZ. If a sea otter is detected outside of either the SZ or EZ but is likely to enter that zone, the airguns may be powered down before the animal is within the radius, as an alternative to a complete shutdown. Likewise, if a sea otter is already within the SZ when first detected, the airguns will be powered down if this is a reasonable alternative to an immediate shutdown. If a sea otter is already within the EZ when first detected, the airguns will be shut down immediately. All power down events will be at the discretion of the operator in cooperation with the PSOs. The applicant has determined that it is not practicable to power down in response to all sea otters within the SZ, and that to do so would incapacitate the 2D and 3D seismic operations. Because power down events will be discretionary, all otters within the SZ will be assumed to experience Level B take regardless of whether a power down is conducted. Although there is no calculated reduction of take estimated for this mitigation measure due to uncertainty in its application, it is expected that some unquantified benefits to sea otters will be realized whenever the operator powers down to reduce sea otter noise exposures.

A shutdown will occur when all underwater sound generation that is louder than 160 dB and within the frequency hearing range of sea otters is suspended. The sound source will be shut down completely if a sea otter approaches the EZ or appears to be in distress due to the noise-generating work. The shutdown procedure will be accomplished within several seconds of the determination that a sea otter is either in or about to enter the EZ. Following a shutdown, noise-generating work will not resume until the sea otter has cleared the EZ. Any shutdown due to a sea otter sighting within the EZ must be followed by a 30-minute all-clear period and then a standard, full ramp-up. Any shutdown for other reasons resulting in the cessation of the sound source for a period greater than 30 minutes must also be followed by full ramp-up procedures.

A ''ramp-up'' procedure will be in place to gradually increase sound volume at a specified rate. Ramp-up is used at the start of airgun operations, including after a power down, shutdown, or any period greater than 10 minutes in duration without airgun operations. The rate of ramp-up will be no more than 6 dB per 5-minute period. Ramp-up will begin with the smallest gun in the array that is being used for all airgun array configurations. The ramp-up procedure for pipe/pile driving involves initially starting with soft strikes. If the complete EZ has not been visible for at least 30 minutes prior to the start of operations, ramp-up will not commence unless the mitigation gun has been operating during the interruption of seismic survey operations. It will not be permissible to ramp up the 24-gun source from a complete shutdown in thick fog or at other times when the outer part of the EZ is not visible. Ramp-up of the airguns will not be initiated if a sea otter is sighted within the EZ at any time.

A speed or course alteration is appropriate if a sea otter is detected outside the EZ and, based on its position and relative motion, is likely to enter the EZ, and a vessel's speed and/or direct course may, when practical and safe, be changed. This technique can be used in coordination with a power-down procedure. The sea otter activities and movements relative to the seismic and support vessels will be closely monitored to ensure that the sea otter does not approach within the EZ. If the mammal appears likely to enter the EZ, further mitigative actions will be taken, *i.e.,* further course alterations, power down, or shutdown of the airguns.

A stakeholder engagement plan is required to determine whether conflicts with subsistence activities are likely to arise. If so, the applicant will be required to develop a plan of cooperation (POC), which will identify what measures have been taken and/or will be taken to minimize adverse effects on the availability of sea otters for subsistence purposes. The POC will include the applicant's plan to meet with the affected communities, both prior to and while conducting the activity, to resolve conflicts and to notify the communities of any changes in the operation. The POC will help coordinate activities with local stakeholders and thus subsistence users, minimize the risk of interfering with subsistence hunting activities, and keep current as to the timing and status of the subsistence hunts. The applicant's stakeholder engagement plan is provided with the applicant's petition, which is available as described in **ADDRESSES**. Meetings and communication will be coordinated with Cook Inlet Regional Citizens Advisory Council, local landowners, government and community organizations, and environmental groups.

In order to issue an LOA for an activity, section 101(a)(5)(A) of the MMPA states that the Service must set forth ''requirements pertaining to the monitoring and reporting of such taking.'' The Service's implementing regulations at 50 CFR 18.27(d)(1)(vii) indicate that requests for authorizations must include the suggested means of accomplishing the necessary monitoring and reporting. Effective reporting is critical to compliance as well as ensuring that the most value is obtained from the required monitoring. The applicant will employ PSOs to conduct visual project monitoring. During 2D and 3D seismic surveys, Hilcorp and Harvest have agreed to conduct aerial overflights for avoidance of other marine mammal species, which will improve monitoring of sea otters. Additional proposed monitoring and reporting requirements are at § 18.138 Monitoring and § 18.139 Reporting requirements.

Based on our evaluation of the applicant's proposed measures, as well as other measures considered, we have preliminarily determined that the proposed mitigation measures provide the means of effecting the least practicable adverse impact on sea otter stocks and their habitat.

Estimated Incidental Take

This section provides the number of incidental takes estimated to occur because of the proposed activities. The number of individuals taken and the number of takes per individual are then analyzed to make the required small numbers and negligible impact determinations.

Estimating Exposure Rates

The Service anticipates that incidental take of sea otters may occur during the proposed activities in Cook Inlet. Noise, aircraft, vessels, and human activities could temporarily interrupt feeding, resting, and movement patterns. Elevated underwater noise levels from seismic surveys may cause short-term, nonlethal, but biologically significant changes in behavior that the Service considers harassment. Pile-driving and other constructing activities along the shoreline may have similar effects and could cause behavioral disturbance leading to take. Harassment (Level A or B) is the only type of take expected to result from these activities; no lethal take is expected.

The number of animals affected will be determined by the distribution of animals and their location in proximity to the project work. Although we cannot predict the outcome of each encounter, it is possible to consider the most likely reactions, given observed responses of marine mammals to various stimuli.

Sound exposure criteria provide the best available proxy for estimation of exposure. The behavioral response of sea otters to shoreline construction and vessel activities is related to the distance between the activity and the animals. Underwater sound is generated in tandem with other airborne visual, olfactory, or auditory signals from the specified activities, and travels much farther. Therefore, estimating exposure to underwater sound can be used to estimate the number of otters exposed to all proposed activities.

No separate exposure evaluation was done for activities that do not generate underwater sound. Nearly all of the proposed activities that may disturb sea otters will occur simultaneously with in-water activities that do generate sound. For example, operation of heavy equipment along the shoreline will facilitate underwater pile driving. The otters affected by the equipment operations are the same as those affected by the pile driving. Sound exposure and behavioral disturbances are accumulated over a 24-hour period, resulting in estimation of one exposure from all in-water sources rather than one each from equipment operations and pile-driving noise. Aircraft support activities will be conducted without a corresponding underwater sound component, but no take is expected from this source of disturbance; see ''Airborne Sounds.''

To estimate the numbers of sea otters likely to experience take, we first calculated the number of otters in Cook Inlet that occur within the project area. The number of otters was calculated from density multiplied by project area. Density was estimated according to region in Cook Inlet.

Density data for Kamishak and the East side of Cook Inlet along the shore of the Kenai Peninsula was derived from aerial surveys conducted in May 2017 (Garlich-Miller *et al.* 2018). Surveys were not conducted for central Cook Inlet in 2017, and 2017 surveys for western Cook Inlet north of Kamishak did not yield useful results. Therefore, the density for those regions was derived from the 2002 surveys conducted by Bodkin *et al.* (2003) and corrected for population growth proportional to the growth rate of Cook Inlet as a whole, as determined from comparison of the 2002 and 2017 surveys. Density values (in otters per km^2) were 1.7 in East Cook Inlet (excluding Kachemak Bay and the outer Coast of Kenai Peninsula south and east of Seldovia), 3.53 in Kamishak Bay, and 0.026 in West and Central Cook Inlet. There are no density data for sea otters in the middle Cook Inlet region north of approximately 60°14′ N (the latitude of Clam Gulch), and otters are uncommon north of about 60°24′ N. Therefore, densities north of Clam Gulch were conservatively assumed to equal the 2002 mid-Cook Inlet survey region density of 0.01 per km^2 from Bodkin *et al.* (2003).

The geographic area of activity covers approximately 11,084 km^2 (4,280 mi^2) in Cook Inlet. Of this area, 1,572 km^2 (607 mi^2) is in East Cook Inlet, 725 km^2 (280 mi^2) in Kamishak Bay, 4,341 km^2 (1,676 mi^2) in West and Central Cook Inlet, and 4,445 km^2 (1,716 mi^2) in Cook Inlet north of the normal range of sea otters. The total number of otters within the project area was calculated to be 5,389 otters $((1{,}572 \times 1.7) + (725 \times 3.53) + (4{,}341 \times 0.026) + (4{,}445 \times 0.01) \approx 5{,}389)$.

Not all otters in the project area will be exposed to project activities. Many activities associated with oil and gas exploration, development, production, and transportation may result in underwater sounds and potential disturbance to marine mammals, but will not meet Levels A and B acoustic harassment criteria. The acoustic characteristics of the different project activities are described in Table 3. Only those specific activities with the likelihood of meeting the acoustic exposure criteria and occurring in the normal range of sea otters were evaluated for estimation of potential Levels A and B harassment. Specifically, Hilcorp's activities include 2D and 3D seismic surveys, vibratory driving of sheet piles at the Iniskin Peninsula causeway in Chinitna Bay, sub-bottom profilers used in high- and low-resolution geohazard surveys, drive-pipe installation, vertical seismic profiling, tugs towing the rig for exploratory wells, plug and abandon activities, and use of water jets or hydraulic grinders during routine maintenance. AGDC's activities include pile driving and anchor handling.

The number of otters that will be exposed to underwater sound levels capable of causing take by Level A and Level B harassment from specific project elements was estimated using the methods recommended by NMFS (2018a,b) for otariid pinnipeds. We multiplied the estimated area in which underwater sound in the frequency range of otter hearing from each activity will exceed 160 dB, termed the ''area of ensonification'' (km^2), by the density of sea otters in that area (number (#) of otters/km^2) to estimate the number of otters in the ensonified area. This value was then multiplied by the duration of the activity (# of days) over the course of the 5-year regulatory period to get the total number of exposures to sound above the thresholds for take.

Predicting Behavioral Response Rates

Although we cannot predict the outcome of each encounter between a sea otter and the equipment and vessels used for the proposed activities, it is possible to consider the most likely reactions. Sea otters have shown little reaction to underwater sounds but the presence of vessels may elicit stronger behavioral (see *Responses to Activities*). Whether an individual animal responds behaviorally to the presence of vessels and equipment is dependent upon several variables, including the activity of the animal prior to stimulus, whether the animal is habituated to similar disturbances, whether the animal is in a state of heightened awareness due to recent disturbances or the presence of predators, group size, the presence of pups, and the temperament of the individual animals. We assumed all animals exposed to underwater sound levels that meet acoustic criteria would experience Level A or Level B take.

Calculating Take

The total take of sea otters from the proposed oil and gas activities in Cook Inlet was estimated by calculating the number of otters in the ensonified area during the full duration of the project.

Distances to Thresholds

To calculate the ensonified area, we first estimated the distances that underwater sound will travel before attenuating to levels below thresholds

for take by Level A and Level B harassment. The distances to the Level A thresholds were calculated using the NMFS Acoustical Guidance Spreadsheets (NMFS 2018b) using thresholds for otariid pinnipeds as a proxy for sea otters. Distances to the 160-dB Level B threshold were calculated using a practical spreading transmission loss model (15 LogR). The only exceptions to the use of the practical spreading model were made when data was available from a site-specific sound source verification of substantially similar equipment used and powered in a similar manner to that proposed by the applicant.

Model estimates incorporated operational and environmental parameters for each activity. For example, sound levels at the source are shown in Table 3, and characteristics of the sound produced are shown in Table 6. Weighting factor adjustments were used for SEL (sound exposure level) calculations based on NMFS Technical Guidance (2018b). Operational parameters were estimated from the description of activities.

The distances to the modelled Level A and Level B thresholds are shown in Table 7. Each estimate represents the radial distance away from the sound source within which a sea otter exposed to the sound of the activity is expected to experience take by Level A or Level B harassment.

TABLE 6—ASSUMPTIONS USED IN CALCULATING DISTANCES TO LEVEL A AND LEVEL B THRESHOLDS

Activity	Type of source	Source level [1]	WFA [2] (kHz)	Source velocity (m/s)	Pulse duration (s)	Repetition rate	Duration per day
2D/3D seismic	Mobile Impulsive	217 @100 m (185 dB_{SEL} @100 m).	1	2.05	N/A	every 6 s	N/A.
Sub bottom profiler	Mobile Impulsive	212 @1 m	4	2.05	0.02	every 0.30 s	N/A.
Impact pile driving	Stationary Impulsive	≤195 @10 m	2	N/A	N/A	1,560 strikes/hr	≤5.5 hrs/day.
Pipe driving	Stationary Impulsive	≤195 @55 m	2	N/A	0.02	≤1,560 strikes/hr	≤4.8 hrs/day.
Vertical seismic profiling.	Stationary Impulsive	227 @1 m	1	N/A	0.02	every 6 s	4 hrs/day.
Impact sheet piling	Stationary Impulsive	190 @10 m	2	N/A	0.02	1,560 strikes/hr	3 hrs/day.
Vibratory sheet piling.	Stationary Non-impulsive.	160 @10 m	2.5	N/A	N/A	N/A	≤4.8 hrs/day.
Water jet	Stationary Non-impulsive.	176 @1 m	2	N/A	N/A	N/A	0.5 hrs/day.
Hydraulic grinder	Stationary Non-impulsive.	159 @1m	2	N/A	N/A	N/A	0.5 hrs/day.
Tug towing	Mobile Non-impulsive.	191 @1 m	1.5	1.54	N/A	N/A	6 hrs/day.
Anchor handling	Mobile Non-impulsive.	179 @1 m	1.5	1.54	N/A	N/A	3 hrs/day.

[1] Source level is given in dBrms, unless otherwise indicated, as measured at the given distance from the source in meters.
[2] Weighting Factor Adjustment.

TABLE 7—CALCULATED DISTANCE IN METERS (m) TO LEVEL A AND LEVEL B THRESHOLDS

Activity	Level A—NMFS Otariid			Level B—USFWS
	Impulsive		Non-impulsive	Both
	232 dB peak	203 dB SEL	219 dB SEL	160 dB rms
2D/3D seismic	10	1.32	N/A	7,330
Sub-bottom profiler	0.05	0.80	N/A	2,929
Pipe driving, Chinitna Bay	0.19	5.21	N/A	1,630
VSP	0.46	284.84	N/A	2,470
Vibratory sheet pile driving	N/A	N/A	0.63	10
Water jet	N/A	N/A	0.56	11.66
Hydraulic grinder	N/A	N/A	0.04	0.86
Tug towing	N/A	N/A	0.00	107.98
18- and 24-inch pipe, impact	0.22	50.53	N/A	1,874.85
48- and 60-inch pipe, impact	0.34	147.99	N/A	2,154.43
all sizes pipe, vibratory	N/A	N/A	3.30	46.42
Sheet pile, impact	0.16	68.69	NA	1,000
Sheet pile, vibratory	N/A	N/A	0.71	10
Anchor handling	N/A	N/A	0.00	37.41

Area and Duration

The area of ensonification is the area in which an animal exposed to underwater sound is expected to experience take from Level A or Level B harassment. The area of a circle ($A=\pi r^2$) where r is the distance to the Level A or Level B threshold was used to calculate the area of ensonification for impulsive stationary sources (pipe driving, vertical seismic profiling), non-impulsive stationary sources (water jets, hydraulic grinders, vibratory pile driving), and non-impulsive mobile sources (tugs towing rigs and anchor handling). For impulsive mobile sources (2D/3D seismic, sub-bottom profiler), the area was then multiplied by the distance of the line to be surveyed each day. Otters spend most of their time at the water's surface or below their last

surface location, so a circle with the sound source at its center is a reasonable representation of the ensonified area. For shoreline activities, the area of the circle is divided by two to remove the area that lies above the water line. Details about the assumptions used in calculations of the area of ensonification for each proposed activity are available in the applicant's petition, which is available as described in **ADDRESSES**.

The area of ensonification was then multiplied by the density of otters in the applicable region of Cook Inlet to estimate the number of otters that might be taken. The results are shown in Table 8. The total number of sea otters in Cook Inlet expected to be taken by Level A harassment over the 5-year course of this proposed ITR is 1. The total expected to be taken by Level B harassment over the 5-year course of this proposed ITR is 93.

The number of otters taken from each stock was estimated by categorizing activity by its location relative to sea otter stock boundaries. Some activities will occur in both the southcentral and southwestern stock boundaries. For these, take of sea otters was assigned in proportion to the area of the activity within each stock region. Of the estimated 93 otters expected to be taken by Level B harassment, 9 otters will belong to the southwest stock, and 84 to the southcentral stock. The one otter estimated to experience Level A take is likely to be from the southcentral stock.

The next step in analysis was to multiply the estimate of the number of individual otters taken by the duration of each activity to calculate the total number of takes. The total number of takes is higher than the number of otters taken because, for example, a resident otter may be taken on each day of noise-generating activity. For some projects, like the 3D seismic survey, the design of the project is well developed; therefore, the duration is well defined. However, for some projects, the duration is not well developed, such as activities around the lower Cook Inlet well sites. In each case, the calculations are based on the applicant's best forecast of activities in the 5-year ITR period. The assumptions regarding duration of these activities are presented in the applicant's petition. The durations used for each activity are provided in Table 9. We assumed one take per day regardless of duration of work within a day. The resulting estimate of the total number of Level B takes expected from proposed oil and gas activities in Cook Inlet from 2019 through the date 5 years from the effective date of the final rule is 1,663. The total number of takes by activity are also presented in Table 9.

The total number of takes from each stock was calculated in the same manner as for estimation of individuals taken. The proportion of takes was set equal to the proportion of an activity occurring inside a stock boundary. The total number of takes of sea otters from the southwest stock is 410. The take number from the southcentral stock is 1,256. A summary of take is shown in Table 10.

TABLE 8—NUMBER OF SEA OTTERS EXPECTED TO BE TAKEN

Applicant	Activity	Density (#/km^2)	Level A			Level B
			Impulsive		Non-impulsive	160 rms
			232 pk	203 SEL	219 SEL	
Hilcorp/Harvest Alaska	2D seismic	1.705	0.102	0.013		74.986
	3D seismic	0.026	0.019	0.003		14.118
	Vibratory sheet pile driving	0.026			0.000	0.000
	Sub-bottom profiler–LCI	0.026	0.000	0.000		1.505
	Sub-bottom profiler–NCI	0.010	0.000	0.000		0.579
	Sub-bottom profiler–TB	0.010	0.000	0.000		0.579
	Sub-bottom profiler–MCI	0.010	0.000	0.000		0.072
	Pipe driving–LCI	0.026	0.000	0.000		0.217
	Pipe driving–TB	0.010	0.000	0.000		0.083
	VSP–LCI	0.026	0.000	0.005		0.498
	VSP–TB	0.010	0.000	0.002		0.192
	Hydraulic grinder	0.010			0.000	0.000
	Water jet	0.010			0.000	0.000
	Tugs towing rig–LCI	0.026			0.000	0.000
	Tugs towing rig–NCI	0.010			0.000	0.000
	Tugs towing rig–TB	0.010			0.000	0.000
AGDC	Product Loading Facility					
	48-inch impact	0.010	0.000	0.000		0.073
	60-inch impact	0.010	0.000	0.000		0.073
	Temporary MOF					
	18-inch vibratory	0.010			0.000	0.000
	24-inch impact	0.010	0.000	0.000		0.054
	48-inch impact	0.010	0.000	0.000		0.073
	60-inch vibratory	0.010			0.000	0.000
	sheet vibratory	0.010			0.000	0.000
	Mainline MOF					
	sheet vibratory	0.010			0.000	0.000
	sheet impact	0.010	0.000	0.000		0.016
	Anchor handling	0.010000			0.000	0.000
Total			0.122	0.025	0.000	93.117

TABLE 9—ESTIMATE OF TOTAL TAKE FOR EACH PROPOSED ACTIVITY

Applicant	Activity	Duration (days)	Level A			Level B
			Impulsive		Non-impulsive	160 rms
			232 pk	203 SEL	219 SEL	
Hilcorp/Harvest Alaska	2D seismic	10.000	1.023	0.135		749.859
	3D seismic	60.000	1.156	0.152		847.090
	Vibratory sheet pile driving	5.000			0.000	0.000
	Sub-bottom profiler–LCI	31.093	0.001	0.013		46.783
	Sub-bottom profiler–NCI	7.773	0.000	0.001		4.498
	Sub-bottom profiler–TB	15.547	0.000	0.002		8.997
	Sub-bottom profiler–MCI	2.915	0.000	0.000		0.211
	Pipe driving–LCI	3.000	0.000	0.000		0.651
	Pipe driving–TB	1.500	0.000	0.000		0.125
	VSP–LCI	2.000	0.000	0.010		0.997
	VSP–TB	1.000	0.000	0.002		0.192
	Hydraulic grinder	10.500			0.000	0.000
	Water jet	10.500			0.000	0.000
	Tugs towing rig–LCI	14.000			0.000	0.013
	Tugs towing rig–NCI	21.000			0.000	0.008
	Tugs towing rig–TB	18.000			0.000	0.007
AGDC	Product Loading Facility					
	48-inch impact	14.000	0.000	0.005		1.021
	60-inch impact	26.500	0.000	0.009		1.932
	Temporary MOF					
	18-inch vibratory	21.804			0.000	0.001
	24-inch impact	1.750	0.000	0.000		0.094
	48-inch impact	1.750	0.000	0.001		0.128
	60-inch vibratory	4.300			0.000	0.000
	sheet vibratory	26.104			0.000	0.000
	Mainline MOF					
	sheet vibratory	2.68			0.000	0.000
	sheet impact	1.68	0.000	0.000		0.026
	Anchor handling	19.00			0.000	0.00
Total			2.180	0.331	0.000	1,662.634

TABLE 10—SUMMARY OF ESTIMATES OF SEA OTTER TAKE BY LEVEL A AND LEVEL B HARASSMENT AND STOCK

Type	Unit of take	Southwest stock	Southcentral stock	Sum
Level A	Number of takes	0	3	3
Level B	Number of takes	410	1,253	1,663
Total	Number of takes	410	1,256	1,666
Level A	Number of otters taken	0	1	1
Level B	Number of otters taken	9	84	93
Total	Number of otters taken	9	85	94

Annual Estimates of Take

The estimates of exposures by activity and location discussed in the previous section are not representative of the estimated exposures per year (*i.e.,* annual takes). It is difficult to characterize each year accurately because many of the activities are progressive (*i.e.,* they depend on results and/or completion of the previous activity). This results in much uncertainty in the timing, duration, and complete scope of work. Each year, each applicant will submit an application for an LOA with the specific details of the planned work for that year and estimated take numbers. Table 11 summarizes the activities according to a scenario presented in the applicant's petition. This scenario combines the most realistic progression by Hilcorp and Harvest with an optimistic scenario for AGDC. In the first season, Hilcorp and Harvest plan to conduct 3D seismic surveys. In the second season, in lower Cook Inlet they plan to conduct activities for one well; in middle Cook Inlet, they plan to conduct plugging and abandonment activities in North Cook Inlet Unit and two wells in the Trading Bay area. In the third season, activities include drilling two wells in lower Cook Inlet. The final well in lower Cook Inlet is planned for the fourth season.

The timing of AGDC's activities will depend on final authorizations and funding and may begin in 2020 rather than 2019. Season 1 will be the first year of project work regardless of year, followed by season 2 during the second year, etc. Work will generally occur from April through October. Material offloading facilities will be constructed in the first and second season, and a product loading facility will be installed during seasons 2, 3, and 4. Installation of the gas pipeline is planned for seasons 3 and 4 as well. The anticipated timing of project components that are

likely to meet or exceed criteria for take of sea otters is shown in Table 11.

The annual number of takes and the number of sea otters taken was then estimated by allocating the total expected take by proportion of each project component occurring in each year. For example, the 2D seismic surveys are planned for year 3, so all takes and otters taken during 2D seismic surveys were assigned to year 3. The resulting estimates of total take by year and number of otters taken by year are shown in Table 12.

TABLE 11—NOISE-GENERATING ACTIVITIES BY YEAR

[Activities are those with source levels above 160 dB rms within frequencies heard by sea otters]

Year	Applicant	Activity	Area
2019—Season 1	Hilcorp/Harvest	• 3D seismic	LCI
		• Geohazard	LCI
		• Sheet pile driving in Chinitna Bay	LCI
		• Pipeline maintenance (geohazard, water jet, grinder)	MCI
	AGDC	• Sheet pile driving at TMOF	MCI
		• Sheet pile driving at MMOF	MCI
2020—Season 2	Hilcorp/Harvest	• Drilling activities (tugs, geohazard, pipe driving, VSP) at 1 well	LCI
		• Drilling activities (tugs, geohazard, pipe driving, VSP) at 2 wells in TB	MCI
		• P&A activities (tugs, geohazard) at 1 well in the NCI	MCI
		• Pipeline maintenance (geohazard, water jet, grinder)	MCI
	AGDC	• Impact pile driving at PLF: 80 48-inch piles, 63 60-inch piles	LCI
		• Sheet pile driving at TMOF	MCI
		• Sheet pile driving at MMOF	MCI
2021—Season 3	Hilcorp/Harvest	• Drilling activities (tugs, geohazard, pipe driving, VSP) at 2 wells	LCI
		• 2D seismic	LCI
		• Pipeline maintenance (geohazard, water jet, grinder)	MCI
	AGDC	• Impact pile driving at PLF: 40 48-inch piles, 80 60-inch piles	LCI
		• Anchor handling for pipeline installation	MCI
2022—Season 4	Hilcorp/Harvest	• Drilling activities (tugs, geohazard, pipe driving, VSP) at 1 well	LCI
		• Pipeline maintenance (geohazard, water jet, grinder)	MCI
	AGDC	• Impact pile driving at PLF: 10 48-inch piles, 48 60-inch piles	LCI
		• Anchor handling for pipeline installation	MCI
2023—Season 5	Hilcorp/Harvest	• Pipeline maintenance (geohazard, water jet, grinder)	MCI

LCI = Lower Cook Inlet, MCI = Middle Cook Inlet Wells, NCI = North Cook Inlet Unit, TB = Trading Bay, PLF = Product Loading Facility, TMOF = Temporary Material Offloading Facility, MMOF = Mainline Material Offloading Facility, VSP = Vertical Seismic Profiling.

TABLE 12—ESTIMATES OF TOTAL NUMBER OF TAKES BY LEVEL B HARASSMENT AND NUMBER OF SEA OTTERS TAKEN BY YEAR

[or project season]

	2019 (Season 1)	2020 (Season 2)	2021 (Season 3)	2022 (Season 4)	2023 (Season 5)	Total
Takes by year (season)	903.98	5.80	751.34	1.48	0.00	1,662.60
% takes by year (season)	54	0	45	0	0	.....
No. of otters taken	16.65	0.89	75.28	0.23	0.00	93.12
% otters taken by year (season)	18	1	81	0	0	.....

Critical Assumptions

In order to conduct this analysis and estimate the potential amount of take, several critical assumptions were made. Here we discuss these assumptions, the potential sources of bias or error inherent in them, and their effects on the analysis. Take by harassment is equated herein with exposure to noise meeting or exceeding the specified criteria. We assume all otters exposed to these noise levels will exhibit behavioral responses that indicate harassment or disturbance. There are likely to be a proportion of animals that respond in ways that indicate some level of disturbance but do not experience significant biological consequences. A correction factor was not applied. This will result in overestimation in take calculations from exposure to underwater noise and underestimation of take from all other sources. The net effect is unknown.

Our estimates do not account for variable responses by age and sex. Females with dependent pups and with pups that have recently weaned are physiologically the most sensitive (Thometz *et al.* 2014) and most likely to experience take from disturbance. There is not enough information on composition of the Cook Inlet sea otter population in the applicant's project area to incorporate individual variability based on age and sex or to predict its influence on take estimates. We therefore assume the response rates are uniform throughout the population. The degree of over- or under-estimation of take is unknown.

The estimates of behavioral response presented here do not account for the individual movements of animals away from the project area due to avoidance or habituation. Our assessment assumes animals remain stationary; *i.e.,* density does not change. There is not enough information about the movement of sea otters in response to specific disturbances to refine these assumptions. For instance, on average, a single otter is expected to experience 18 instances of Level B take and another otter will experience 3 instances of Level A take. While otters do have restricted movements and smaller home ranges than other marine mammals and, therefore, are likely to be exposed to sound during multiple days of work, it is unlikely that any single otter will

continue to respond in the same manner. The otter will either depart from the area and return after activities are complete, or it will habituate to the disturbance and will no longer experience take. However, we have no data to adjust for the likelihood of departure or habituation. This situation is likely to result in overestimation of take.

We do not account for an otter's time at the water's surface where sound attenuates faster than in deeper water. The average dive time of a northern sea otter is only 85 to 149 seconds (Bodkin *et al.* 2004; Wolt *et al.* 2012). Wolt *et al.* (2012) found Prince William Sound sea otters average 8.6 dives per feeding bout, and when multiplied by the average dive time (149 sec), the average total time a sea otter spends underwater during a feeding bout is about 21 minutes. Bodkin *et al.* (2007) found the overall average activity budget (proportion of 24-hour day) spent foraging and diving was 0.48 (11.4 hours per day), and 0.52 nondiving time (12.5 hours per day). Gelatt *et al.* (2002) found that the percent time foraging ranged from 21 percent for females with very young (less than 3 weeks of age) dependent pups to 52 percent for females with old (greater than or equal to 10 weeks of age) pups. Therefore, although exposure to underwater sound during a single dive is limited, accumulation of exposure over time is expected. Our assessment will cause some overestimation in this regard.

We also assume that the mitigation measures presented will be effective for avoiding some level of take. However, additional information is needed to quantify the effectiveness of mitigation. The monitoring and reporting in this proposed ITR will help fill this information need in the future, but for this suite of proposed activities, no adjustments were made to estimate the number of takes that will be avoided by applying effective mitigation measures. This scenario leads to overestimation in calculation of take.

The current project description represents the applicant's best expectation of how, where, and when work will proceed. We expect that the current project description is an accurate depiction of the work that will be conducted. Details provided in future applications for LOAs under these proposed regulations must provide accurate project details, which may include minor changes from those described here. Minor changes to the details of the proposed activities, such as a change of the specific vessels or a change in the start date of a specific activity, are not expected to change the overall estimates of take. In all cases, the most accurate information about the project and the specific estimation parameters will be used, along with methods that are consistent with those described here, to calculate the effects of the activities and to ensure that the effects remain concordant with the determinations of this proposed rulemaking. Larger project changes that will alter the findings proposed here will not be considered as part of this proposed ITR.

Potential Impacts on Sea Otter Stocks

The estimated number of takes by Level B harassment is 1,663 instances of take of 93 otters due to behavioral responses or TTS associated with noise exposure. Among otters from the southwest stock, 410 Level B takes of 9 otters are expected; and among the southcentral stock, 1,253 takes of 84 otters from Level B harassment are expected. The estimated number of takes by Level A harassment is three instances of take of a single otter due to behavioral responses or PTS associated with noise exposure. This otter and is expected to belong to the southcentral stock. Combined, the expected number of Level A and Level B takes is 410 takes of 9 otters from the southwest stock and 1,256 takes of 85 otters from the southcentral stock.

These levels represent a small proportion relative to the most recent stock abundance estimates for the sea otter. Take of 9 animals is 0.02 percent of the best available estimate of the current population size of 45,064 animals in the southwest stock (USFWS 2014a) ($9/45{,}064 \approx 0.0002$). Take of 85 is about 0.5 percent of the 18,297 animals in the southcentral stock (USFWS 2014b) ($85/18{,}297 \approx 0.00465$).

Sea otters exposed to sound produced by the project are likely to respond with temporary behavioral modification or displacement. Project activities could temporarily interrupt the feeding, resting, and movement of sea otters. Because activities will occur during a limited amount of time and in a localized region, the impacts associated with the project are likewise temporary and localized. The anticipated effects are primarily short-term behavioral reactions and displacement of sea otters near active operations.

Animals that encounter the proposed activities may exert more energy than they would otherwise due to temporary cessation of feeding, increased vigilance, and retreat from the project area. We expect that affected sea otters would tolerate this exertion without measurable effects on health or reproduction. Most of the anticipated takes would be due to short-term Level B harassment in the form of TTS, startling reactions, or temporary displacement. Three instances of Level A take are expected to occur due to PTS. The effects of PTS in sea otters are unknown.

With the adoption of the measures proposed in the applicant's mitigation and monitoring plan and required by this proposed ITR, the amount and likelihood of Level A and Level B take will be reduced. The number of otters affected will be small relative to the stocks, and the overall effect on the stocks is expected to be negligible.

Potential Impacts on Subsistence Uses

The proposed activities will occur near marine subsistence harvest areas used by Alaska Natives from the villages of Ninilchik, Salamatof, Tyonek, Nanwalek, Seldovia, and Port Graham. Between 2013 and 2018, approximately 491 sea otters were harvested for subsistence use from Cook Inlet, averaging 98 per year. The large majority were taken in Kachemak Bay. Harvest occurs year-round, but peaks in April and May, with about 40 percent of the total taken at that time. February and March are also high harvest periods, with about 10 percent of the total annual harvest occurring in each of those months. The proposed project area will avoid Kachemak Bay and therefore avoid significant overlap with subsistence harvest areas. The applicant's activities will not preclude access to hunting areas or interfere in any way with individuals wishing to hunt. Vessels, aircraft, and project noise may displace otters, resulting in changes to availability of otters for subsistence use during the project period. Otters may be more vigilant during periods of disturbance, which could affect hunting success rates. The applicant will coordinate with Alaska Native villages and Tribal organizations to identify and avoid potential conflicts. If any conflicts are identified, the applicant will develop a POC specifying the particular steps that will be taken to address any effects the project might have on subsistence harvest.

Findings

Small Numbers

For small numbers analyses, the statute and legislative history do not expressly require a specific type of numerical analysis, leaving the determination of ''small'' to the agency's discretion. In this case, we propose a finding that the proposed project may result in approximately 1,666 takes of 94 otters, of which, 410 takes of 9

animals will be from the southwest stock and 1,256 takes of 85 otters will be from the southcentral stock. These numbers represent less than 1 percent of each stock (USFWS 2014a,b). Based on these numbers, we propose a finding that the applicant's proposed activities will take, by harassment, only a small number of animals.

Negligible Impact

We propose a finding that any incidental take by harassment resulting from the proposed project cannot be reasonably expected to, and is not reasonably likely to, adversely affect the sea otter through effects on annual rates of recruitment or survival and would, therefore, have no more than a negligible impact on the species or stocks. In making this finding, we considered the best available scientific information, including: the biological and behavioral characteristics of the species, the most recent information on species distribution and abundance within the area of the specified activities, the potential sources of disturbance caused by the project, and the potential responses of animals to this disturbance. In addition, we reviewed material supplied by the applicant, other operators in Alaska, our files and datasets, published reference materials, and species experts.

Sea otters are likely to respond to proposed activities with temporary behavioral modification or displacement. These reactions are unlikely to have consequences for the health, reproduction, or survival of most affected animals. Most animals will respond to disturbance by moving away from the source, which may cause temporary interruption of foraging, resting, or other natural behaviors. Affected animals are expected to resume normal behaviors soon after exposure, with no lasting consequences. Some animals may exhibit more severe responses typical of Level B harassment, such as fleeing, ceasing feeding, or flushing from a haulout. These responses could have significant biological impacts for affected individuals. One otter may experience Level A take from PTS. The effects to this individual are unknown, but lasting effects to survival and reproduction for this individual are possible. Thus, although the proposed activities may result in approximately 410 takes of 9 animals from the southwest stock and 1,256 takes of 85 otters from the southcentral stock, we do not expect this level of harassment to affect annual rates of recruitment or survival or result in adverse effects on the species or stocks.

Our proposed finding of negligible impact applies to incidental take associated with the proposed activities as mitigated by the avoidance and minimization measures identified in the applicant's mitigation and monitoring plan. Minimum flight altitudes will help operators avoid take from exposure to aircraft noise. Protected species observers and procedures implemented by PSOs will limit Level A take during seismic work and pile driving. Collision-avoidance measures, including speed reductions when otters are present, will ensure that boat strikes are unlikely. These mitigation measures are designed to minimize interactions with and impacts to sea otters and, together with the monitoring and reporting procedures, are required for the validity of our finding and are a necessary component of the proposed ITR. For these reasons, we propose a finding that the proposed activities will have a negligible impact on sea otters.

Impact on Subsistence

We propose a finding that the anticipated harassment caused by the applicant's activities would not have an unmitigable adverse impact on the availability of sea otters for taking for subsistence uses. In making this finding, we considered the timing and location of the proposed activities and the timing and location of subsistence harvest activities in the area of the proposed project. We also considered the applicant's consultation with subsistence communities, proposed measures for avoiding impacts to subsistence harvest, and commitment to development of a POC, should any adverse impacts be identified.

Request for Public Comments

If you wish to comment on this proposed regulation, the associated draft environmental assessment, or the information collection, you may submit your comments by any of the methods described in **ADDRESSES**. Please identify if you are commenting on the proposed regulation, draft environmental assessment, or the information collection, make your comments as specific as possible, confine them to issues pertinent to the proposed regulation, and explain the reason for any changes you recommend. Where possible, your comments should reference the specific section or paragraph that you are addressing. The Service will consider all comments that are received by the close of the comment period (see **DATES**).

Comments, including names and street addresses of respondents, will become part of the administrative record. Before including your address, telephone number, email address, or other personal identifying information in your comment, be advised that your entire comment, including your personal identifying information, may be made publicly available at any time. While you can ask us in your comments to withhold from public review your personal identifying information, we cannot guarantee that we will be able to do so.

Required Determinations

National Environmental Policy Act (NEPA)

We have prepared a draft environmental assessment (EA) in accordance with the NEPA (42 U.S.C. 4321 *et seq.*). We have preliminarily concluded that issuance of an incidental take regulation for the nonlethal, incidental, unintentional take by harassment of small numbers of sea otters in Alaska during activities conducted by Hilcorp, Harvest, and AGDC in 2019 to 2024 would not significantly affect the quality of the human environment and that the preparation of an environmental impact statement is not required by section 102(2) of NEPA or its implementing regulations. A copy of the EA can be obtained from the locations described in **ADDRESSES**.

Endangered Species Act (ESA)

Under the ESA, all Federal agencies are required to ensure the actions they authorize are not likely to jeopardize the continued existence of any threatened or endangered species or result in destruction or adverse modification of critical habitat. The southwest DPS of sea otters is listed as threatened under the ESA at 50 CFR 17.11(h) (70 FR 46366, August 9, 2005). The proposed activities will occur within designated critical habitat found at 50 CFR 17.95(a). Prior to issuance of a final ITR, if warranted, the Service will complete intra-Service consultation under section 7 of the ESA on our proposed issuance of an ITR, which will consider whether the effects of the proposed project will adversely affect sea otters or adversely modify their critical habitat. These evaluations and findings will be made available on the Service's website and at *https://www.regulations.gov.*

Regulatory Planning and Review

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

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

OIRA bases its determination upon the following four criteria: (a) Whether the rule will have an annual effect of $100 million or more on the economy or adversely affect an economic sector, productivity, jobs, the environment, or other units of the government; (b) Whether the rule will create inconsistencies with other Federal agencies' actions; (c) Whether the rule will materially affect entitlements, grants, user fees, loan programs, or the rights and obligations of their recipients; (d) Whether the rule raises novel legal or policy issues.

Expenses will be related to, but not necessarily limited to: The development of applications for LOAs; monitoring, recordkeeping, and reporting activities conducted during oil and gas operations; development of activity- and species-specific marine mammal monitoring and mitigation plans; and coordination with Alaska Natives to minimize effects of operations on subsistence hunting. Realistically, costs of compliance with this proposed rule are minimal in comparison to those related to actual oil and gas exploration, development, production, and transport operations. The actual costs to develop the petition for promulgation of regulations and LOA requests probably do not exceed $200,000 per year, short of the ''major rule'' threshold that would require preparation of a regulatory impact analysis. As is presently the case, profits will accrue to the applicant; royalties and taxes will accrue to the Government; and the rule will have little or no impact on decisions by the applicant to relinquish tracts and write off bonus payments.

Small Business Regulatory Enforcement Fairness Act

We have determined that this rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. The rule is also not likely to result in a major increase in costs or prices for consumers, individual industries, or government agencies or have significant adverse effects on competition, employment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Regulatory Flexibility Act

We have also determined that this rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Companies and their contractors conducting exploration, development, production, and transportation of oil and gas in Alaska have been identified as the only likely applicants under the regulations, and these potential applicants have not been identified as small businesses. Therefore, neither a Regulatory Flexibility Analysis nor a Small Entity Compliance Guide is required.

Takings Implications

This rule does not have takings implications under Executive Order 12630 because it authorizes the nonlethal, incidental, but not intentional, take of sea otters by oil and gas industry companies and, thereby, exempts these companies from civil and criminal liability as long as they operate in compliance with the terms of their LOAs. Therefore, a takings implications assessment is not required.

Federalism Effects

This rule does not contain policies with Federalism implications sufficient to warrant preparation of a Federalism Assessment under Executive Order 13132. The MMPA gives the Service the authority and responsibility to protect sea otters.

Unfunded Mandates Reform Act

In accordance with the Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*), this rule will not ''significantly or uniquely'' affect small governments. A Small Government Agency Plan is not required. The Service has determined and certifies pursuant to the Unfunded Mandates Reform Act that this rulemaking will not impose a cost of $100 million or more in any given year on local or State governments or private entities. This rule will not produce a Federal mandate of $100 million or greater in any year, *i.e.,* it is not a ''significant regulatory action'' under the Unfunded Mandates Reform Act.

Government-to-Government Relationship With Native American Tribal Governments

It is our responsibility to communicate and work directly on a Government-to-Government basis with federally recognized Alaska Native tribes and corporations in developing programs for healthy ecosystems. We seek their full and meaningful participation in evaluating and addressing conservation concerns for protected species. It is our goal to remain sensitive to Alaska Native culture, and to make information available to Alaska Natives. Our efforts are guided by the following policies and directives: (1) The Native American Policy of the Service (January 20, 2016); (2) the Alaska Native Relations Policy (currently in draft form); (3) Executive Order 13175 (January 9, 2000); (4) Department of the Interior Secretarial Orders 3206 (June 5, 1997), 3225 (January 19, 2001), 3317 (December 1, 2011), and 3342 (October 21, 2016); (5) the Alaska Government-to-Government Policy (a departmental memorandum issued January 18, 2001); and (6) the Department of the Interior's policies on consultation with Alaska Native tribes and organizations.

We have evaluated possible effects of the proposed activities on federally recognized Alaska Native Tribes and corporations. Through the ITR process identified in the MMPA, the applicant has presented a communication process, culminating in a POC if needed, with the Native organizations and communities most likely to be affected by their work. The applicant has engaged these groups in informational communications. We invite continued discussion about the proposed ITR.

Civil Justice Reform

The Departmental Solicitor's Office has determined that this regulation does not unduly burden the judicial system and meets the applicable standards provided in sections 3(a) and 3(b)(2) of Executive Order 12988.

Paperwork Reduction Act

This rule requests a revision to an existing information collection. All information collections require approval under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). We may not conduct or sponsor, and you are not required to respond to, a collection of information unless it displays a

currently valid OMB control number. The OMB previously reviewed and approved the information collection requirements associated with incidental take of marine mammals in the Beaufort and Chukchi Seas and assigned OMB Control Number 1018–0070 (expires July 31, 2020).

The revised requirements reporting and/or recordkeeping requirements identified below require approval by OMB:

(1) Remove references to 50 CFR part 18, subpart I (expired); and

(2) Add references to 50 CFR part 18, subpart K.

Title of Collection: Incidental Take of Marine Mammals During Specified Activities, 50 CFR 18.27 and 50 CFR 18, Subparts J and K.

OMB Control Number: 1018–0070.

Form Numbers: None.

Type of Review: Revision of a currently approved collection.

Respondents/Affected Public: Oil and gas industry representatives, including applicants for ITRs and LOAs, operations managers, and environmental compliance personnel.

Total Estimated Number of Annual Respondents: 84.

Total Estimated Number of Annual Responses: 356.

Estimated Completion Time per Response: Varies from 1.5 hours to 150 hours, depending on activity.

Total Estimated Number of Annual Burden Hours: 1,800.

Respondent's Obligation: Required to obtain or retain a benefit.

Frequency of Collection: On occasion.

Total Estimated Annual Nonhour Burden Cost: $200,000.

As part of our continuing effort to reduce paperwork and respondent burdens, we invite the public and other Federal agencies to comment on any aspect of this information collection, including:

(1) Whether or not the collection of information is necessary, including whether or not the information will have practical utility;

(2) The accuracy of our estimate of the burden for this 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.

Send your comments and suggestions on this information collection by the date indicated in **DATES** to the Desk Officer for the Department of the Interior at OMB–OIRA at (202) 395–5806 (fax) or *OIRA_Submission@omb.eop.gov* (email). You may view the information collection request(s) at *http://www.reginfo.gov/public/do/PRAMain.* Please provide a copy of your comments to the Service Information Collection Clearance Officer, U.S. Fish and Wildlife Service, 5275 Leesburg Pike, MS: BPHC, Falls Church, VA 22041–3803 (mail); or *Info_Coll@fws.gov* (email). Please reference OMB Control Number 1018–0070 in the subject line of your comments.

Energy Effects

Executive Order 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. This rule provides exceptions from the taking prohibitions of the MMPA for entities engaged in the exploration of oil and gas in Cook Inlet, Alaska. By providing certainty regarding compliance with the MMPA, this rule will have a positive effect on the oil and gas industry and its activities. Although the rule requires applicants to take a number of actions, these actions have been undertaken as part of oil and gas industry operations for many years as part of similar past regulations in Alaska. Therefore, this rule is not expected to significantly affect energy supplies, distribution, or use and does not constitute a significant energy action. No Statement of Energy Effects is required.

References

For a list of the references cited in this proposed rule, see Docket No. FWS–R7–ES–2019–0012, available at *https://www.regulations.gov.*

List of Subjects in 50 CFR Part 18

Administrative practice and procedure, Alaska, Imports, Indians, Marine mammals, Oil and gas exploration, Reporting and recordkeeping requirements, Transportation.

Proposed Regulation Promulgation

For the reasons set forth in the preamble, the Service proposes to amend part 18, subchapter B of chapter 1, title 50 of the Code of Federal Regulations as set forth below.

PART 18—MARINE MAMMALS

■ 1. The authority citation of 50 CFR part 18 continues to read as follows:

Authority: 16 U.S.C. 1361 *et seq.*

■ 2. Add subpart K to read as follows:

Subpart K—Nonlethal Taking of Marine Mammals Incidental to Oil and Gas Activities in Cook Inlet, Alaska

Sec.
18.130 Specified activities covered by this subpart.
18.131 Specified geographic region where this subpart applies.
18.132 Dates this subpart is in effect.
18.133 Authorized take allowed under a Letter of Authorization (LOA).
18.134 Procedure to obtain a Letter of Authorization (LOA).
18.135 How the Service will evaluate a request for a Letter of Authorization (LOA).
18.136 Prohibited take under a Letter of Authorization (LOA).
18.137 Mitigation.
18.138 Monitoring.
18.139 Reporting requirements.
18.140 Measures to reduce impacts to subsistence users.
18.141 Information collection requirements.

§ 18.130 Specified activities covered by this subpart.

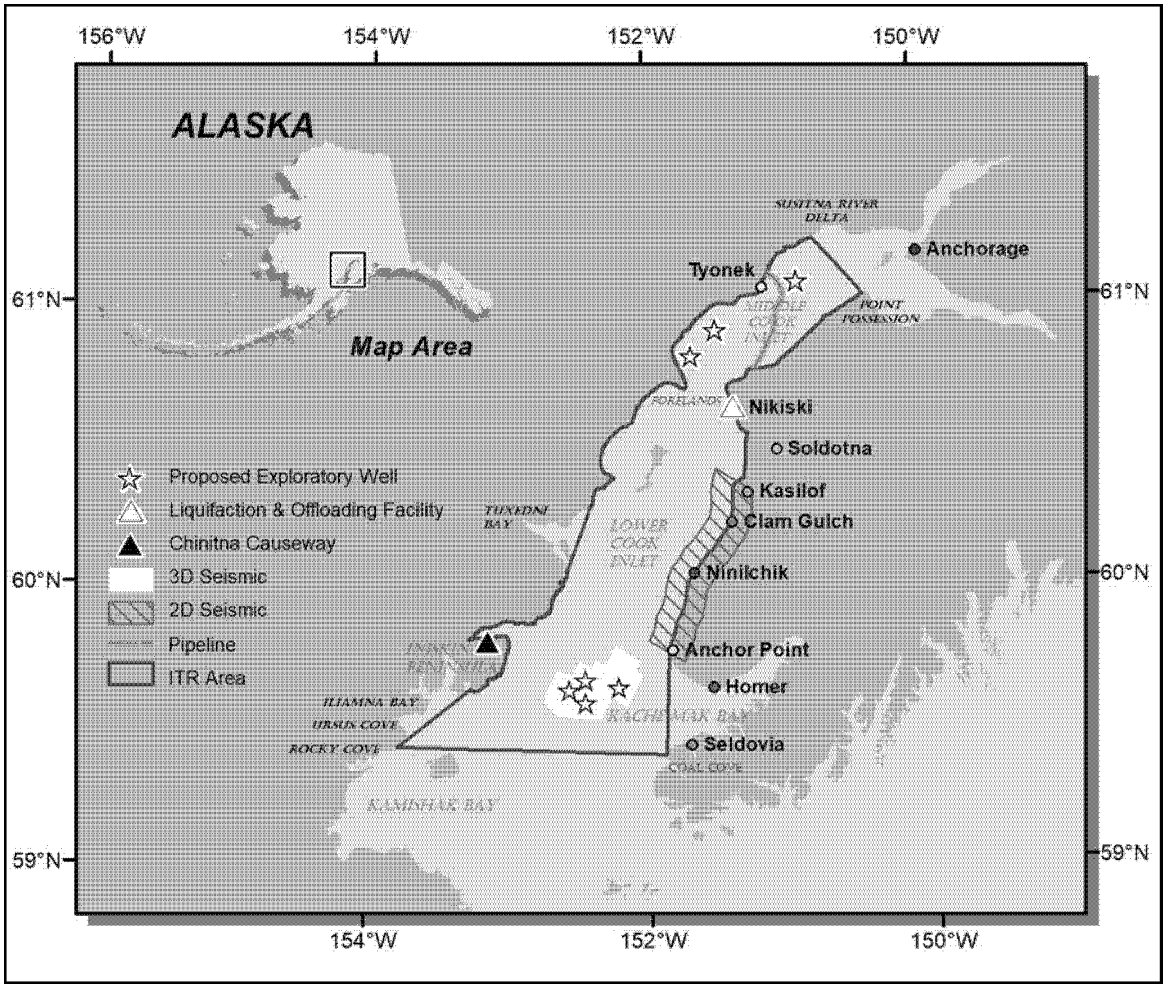
Regulations in this subpart apply to the nonlethal incidental, but not intentional, take, as defined in § 18.3 and under section 3 of the Marine Mammal Protection Act (16 U.S.C. 1371 *et seq.*), of small numbers of northern sea otters (*Enhydra lutris kenyoni;* hereafter ''otter,'' ''otters,'' or ''sea otters'') by Hilcorp Alaska, LLC, Harvest Alaska, LLC, and the Alaska Gasline Development Corporation while engaged in activities associated with or in support of oil and gas exploration, development, production, and transportation in Cook Inlet, Alaska.

§ 18.131 Specified geographic region where this subpart applies.

(a) The specified geographic region is Cook Inlet, Alaska, south of a line from the Susitna River Delta to Point Possession (approximately 61°15′54″ N, 150°41′07″ W, to 61°02′19″ N, 150°23′48″ W, WGS 1984) and north of a line from Rocky Cove to Coal Cove (approximately 59°25′56″ N, 153°44′25″ W and 59°23′48″ N, 151°54′28″ W, WGS 1984), excluding Ursus Cove, Iniskin Bay, Iliamna Bay, and Tuxedni Bay.

(b) The geographic area of these incidental take regulations (ITRs) includes all Alaska State waters and Outer Continental Shelf Federal waters within this area as well as all adjacent rivers, estuaries, and coastal lands where sea otters may occur, except for those areas explicitly excluded in paragraph (a) of this section.

(c) Map of the Cook Inlet ITR region follows:



§ 18.132 Dates this subpart is in effect.

Regulations in this subpart are effective from [EFFECTIVE DATE OF THE FINAL RULE] to [DATE 5 YEARS AFTER THE EFFECTIVE DATE OF THE FINAL RULE].

§ 18.133 Authorized take allowed under a Letter of Authorization (LOA).

(a) To incidentally take marine mammals pursuant to this subpart, Hilcorp Alaska, LLC, Harvest Alaska, LLC, or the Alaska Gasline Development Corporation (hereafter ''the applicant'') must apply for and obtain an LOA in accordance with §§ 18.27(f) and 18.134.

(b) An LOA allows for the nonlethal, incidental, but not intentional take by harassment of sea otters during activities specified in § 18.130 within the Cook Inlet ITR region described in § 18.131.

(c) Each LOA will set forth:

(1) Permissible methods of incidental take;

(2) Means of effecting the least practicable adverse impact (*i.e.,* mitigation) on the species, its habitat, and the availability of the species for subsistence uses; and

(3) Requirements for monitoring and reporting.

(d) Issuance of the LOA(s) must be based on a determination that the level of take will be consistent with the findings made for the total allowable take under this subpart.

§ 18.134 Procedure to obtain a Letter of Authorization (LOA).

(a) The applicant must be a U.S. citizen as defined in § 18.27(c) and must submit the request for authorization to the U.S. Fish and Wildlife Service (Service) Alaska Region Marine Mammals Management Office (MMM), MS 341, 1011 East Tudor Road, Anchorage, Alaska 99503, at least 90 days prior to the start of the proposed activity.

(b) The request for an LOA must comply with the requirements set forth in §§ 18.137 through 18.139 and must include the following information:

(1) A plan of operations that describes in detail the proposed activity (type of project, methods, and types and numbers of equipment and personnel, etc.), the dates and duration of the activity, and the specific locations of and areas affected by the activity. Changes to the proposed project without prior authorization may invalidate an LOA.

(2) A site-specific marine mammal monitoring and mitigation plan to monitor and mitigate the effects of the activity on sea otters.

(3) An assessment of potential effects of the proposed activity on subsistence hunting of sea otters.

(i) The applicant must communicate with potentially affected subsistence communities along the Cook Inlet coast and appropriate subsistence user organizations to discuss the location, timing, and methods of proposed activities and identify any potential conflicts with subsistence hunting activities.

(ii) The applicant must specifically inquire of relevant communities and organizations if the proposed activity will interfere with the availability of sea otters for the subsistence use of those groups.

(iii) The applicant must include documentation of consultations with potentially affected user groups. Documentation must include a list of

persons contacted, a summary of any concerns identified by community members and hunter organizations, and the applicant's responses to identified concerns.

(iv) If any concerns regarding effects of the activity on sea otter subsistence harvest are identified, the applicant will provide to the Service a Plan of Cooperation (POC) with specific steps for addressing those concerns.

§ 18.135 How the Service will evaluate a request for a Letter of Authorization (LOA).

(a) The Service will evaluate each request for an LOA based on the specific activity and the specific geographic location. We will determine whether the level of activity identified in the request is commensurate with the analysis and findings made for this subpart regarding the number of animals likely to be taken and evaluate whether there will be a negligible impact on sea otters or an adverse impact on the availability of sea otters for subsistence uses. Depending on the results of the evaluation, we may grant the authorization, add further conditions, or deny the authorization.

(b) Once issued, the Service may withdraw or suspend an LOA if the project activity is modified in a way that undermines the results of the previous evaluation, if the conditions of the regulations in this subpart are not being substantially complied with, or if the taking allowed is or may be having more than a negligible impact on the affected stock of sea otters or an unmitigable adverse impact on the availability of sea otters for subsistence uses.

(c) The Service will make decisions concerning withdrawals of an LOA, either on an individual or class basis, only after notice and opportunity for public comment in accordance with § 18.27(f)(5). The requirement for notice and public comment will not apply should we determine that an emergency exists that poses a significant risk to the well-being of the species or stocks of sea otters.

§ 18.136 Prohibited take under a Letter of Authorization (LOA).

(a) Except as otherwise provided in this subpart, prohibited taking is described in § 18.11 as well as: Intentional take, lethal incidental take of sea otters, and any take that fails to comply with this subpart or with the terms and conditions of an LOA.

(b) If project activities cause unauthorized take, the applicant must take the following actions:

(1) Cease activities immediately (or reduce activities to the minimum level necessary to maintain safety) and report the details of the incident to the Service MMM within 48 hours; and

(2) Suspend further activities until the Service has reviewed the circumstances, determined whether additional mitigation measures are necessary to avoid further unauthorized taking, and notified the applicant that it may resume project activities.

§ 18.137 Mitigation.

(a) *Mitigation measures for all LOAs.* The applicant, including all personnel operating under the applicant's authority (or ''operators,'' including contractors, subcontractors, and representatives) must undertake the following activities to avoid and minimize take of sea otters by harassment.

(1) Implement policies and procedures to avoid interactions with and minimize to the greatest extent practicable adverse impacts on sea otters, their habitat, and the availability of these marine mammals for subsistence uses.

(2) Develop avoidance and minimization policies and procedures, in cooperation with the Service, that include temporal or spatial activity restrictions to be used in response to the presence of sea otters engaged in a biologically significant activity (*e.g.,* resting, feeding, hauling out, mating, or nursing).

(3) Cooperate with the Service's MMM Office and other designated Federal, State, and local agencies to monitor and mitigate the impacts of oil and gas industry activities on sea otters.

(4) Allow Service personnel or the Service's designated representative to board project vessels or visit project work sites for the purpose of monitoring impacts to sea otters and subsistence uses of sea otters at any time throughout project activities so long as it is safe to do so.

(5) Designate trained and qualified protected species observers (PSOs) to monitor for the presence of sea otters, initiate mitigation measures, and monitor, record, and report the effects of the activities on sea otters. The applicant is responsible for providing training to PSOs to carry out mitigation and monitoring.

(6) Have an approved mitigation and monitoring plan on file with the Service MMM and onsite that includes the following information:

(i) The type of activity and where and when the activity will occur (*i.e.,* a summary of the plan of operation);

(ii) Personnel training policies, procedures, and materials;

(iii) Site-specific sea otter interaction risk evaluation and mitigation measures;

(iv) Sea otter avoidance and encounter procedures; and

(v) Sea otter observation and reporting procedures.

(7) Contact affected subsistence communities and hunter organizations to identify any potential conflicts that may be caused by the proposed activities and provide the Service documentation of communications as described in § 18.134.

(b) *Mitigation measures for in-water noise-generating work.* The applicant must carry out the following measures:

(1) *Mitigation zones.* Establish mitigation zones for project activities that generate underwater sound levels ≥160 decibels (dB) between 125 hertz (Hz) and 38 kilohertz (kHz) (hereafter ''noise-generating work'').

(i) All dB levels are referenced to 1 μPa for underwater sound. All dB levels herein are dB_{RMS} unless otherwise noted; dB_{RMS} refers to the root-mean-squared dB level, the square root of the average of the squared sound pressure level, typically measured over 1 second.

(ii) Mitigation zones must include all in-water areas where work-related sound received by sea otters will match the levels and frequencies in paragraph (b)(1) of this section. Mitigation zones will be designated as follows:

(A) An Exclusion Zone (EZ) will be established throughout all areas where sea otters may be exposed to sound levels capable of causing Level A take as shown in the table in paragraph (b)(1)(iii) of this section.

(B) The Safety Zone (SZ) is an area larger than the EZ and will include all areas within which sea otters may be exposed to noise levels that will likely result in Level B take as shown in the table in paragraph (b)(1)(iii) of this section.

(C) Both the EZ and SZ will be centered on the sound source. The method of estimation and minimum radius of each zone will be specified in any LOA issued under § 18.135 and will be based on the best available science.

(iii) Summary of acoustic exposure thresholds for take of sea otters from underwater sound in the frequency range 125 Hz–32 kHz:

Marine mammals	Injury (Level A) threshold [1]		Disturbance (Level B) threshold
	Impulsive	Non-impulsive	All
Sea otters	232 dB peak; 203; dB SELcum	219 dB SELcum	160 dB_{RMS}.

[1] Based on acoustic criteria for otariid pinnipeds from the National Marine Fisheries Service. Sound source types are separated into impulsive (*e.g.,* seismic, pipe driving, sub-bottom profiler) and non-impulsive (tugs, towing rigs, drilling, water jet, hydraulic grinder) and require estimation of the distance to the peak received sound pressure level (peak) and 24-hr cumulative sound exposure level (SELcum).

(2) *Monitoring.* Designate trained and qualified PSOs or ''observers'' to monitor for the presence of sea otters in mitigation zones, initiate mitigation measures, and record and report the effects of project work on otters for all noise-generating work.

(3) *Mitigation measures for sea otters in mitigation zones.* The following actions will be taken in response to otters in mitigation zones:

(i) Sea otters that are under no visible distress within the SZ must be monitored continuously. Power down, shut down, or maneuver away from the sea otter if practicable to reduce sound received by the animal. Maintain 100 m (301 ft) separation distance whenever possible. Exposures in this zone are counted as one Level B take per animal per day.

(ii) When sea otters are observed within or approaching the EZ, noise-generating work as defined in paragraph (b)(1) of this section must be immediately shut down or powered down to reduce the size of the zone sufficiently to exclude the animal from the zone. Vessel speed or course may be altered to achieve the same task. Exposures in this zone are counted as one Level A take per animal per day.

(iii) When sea otters are observed in visible distress (for example, vocalizing, repeatedly spy-hopping, or fleeing), noise-generating work as defined in paragraph (b)(1) of this section must be immediately shut down or powered down to reduce the size of the zone sufficiently to exclude the animal from the zone.

(iv) Following a shutdown, the noise-generating activity will not resume until the sea otter has cleared the EZ. The animal will be considered to have cleared the EZ if it is visually observed to have left the EZ or has not been seen within the EZ for 30 minutes or longer.

(4) *Ramp-up procedures.* Prior to noise-generating work, a ''ramp-up'' procedure must be used to increase the levels of underwater sound from noise-generating work at a gradual rate.

(i) *Seismic surveys.* A ramp-up will be used at the initial start of airgun operations and prior to restarting after any period greater than 10 minutes without airgun operations, including a power-down or shutdown event (described in paragraphs (b)(6) and (7) of this section). During geophysical work, the number and total volume of airguns will be increased incrementally until the full volume is achieved. The rate of ramp-up will be no more than 6 dB per 5-minute period. Ramp-up will begin with the smallest gun in the array that is being used for all airgun array configurations. During the ramp-up, the applicable mitigation zones (based on type of airgun and sound levels produced) must be maintained. If the complete applicable EZ has not been visible for at least 30 minutes prior to the start of operations, ramp-up will not start unless a 10-in^3 mitigation gun has been operating during the interruption of seismic survey operations. It will not be permissible to ramp up from a complete shutdown in thick fog or at other times when the outer part of the applicable EZ is not visible, unless the mitigation gun has been operating.

(ii) *Pile/pipe driving.* A ramp-up of the hammering will precede each day's pipe/pile driving activities or if pipe/pile driving has ceased for more than 1 hour. The EZ will be cleared 30 minutes prior to a ramp-up to ensure no sea otters are within or entering the EZ. Initial hammering starts will not begin during periods of poor visibility (*e.g.,* night, fog, wind) when the entire EZ is not visible. The ramp-up procedure involves initially starting with three soft strikes at 40 percent energy, followed by a 1-minute waiting period followed by two subsequent three-strike sets. Monitoring will occur during all hammering sessions.

(iii) *All activities.* Any shutdown due to sea otters sighted within the EZ must be followed by a 30-minute all-clear period and then a standard full ramp-up. Any shutdown for other reasons resulting in the cessation of the sound source for a period greater than 30 minutes must also be followed by full ramp-up procedures. If otters are observed during a ramp-up effort or prior to startup, a PSO must record the observation and monitor the animal's position until it moves out of visual range. Noise-generating work may commence if, after a full and gradual effort to ramp up the underwater sound level, the otter is outside of the EZ and does not show signs of visible distress (for example, vocalizing, repeatedly spy-hopping, or fleeing).

(5) *Startup procedures.* (i) Visual monitoring must begin at least 30 minutes prior to, and continue throughout, ramp-up efforts.

(ii) Visual monitoring must continue during all noise-generating work occurring in daylight hours.

(6) *Power-down procedures.* A power-down procedure involves reducing the volume of underwater sound generated to prevent an otter from entering the EZ.

(i) Whenever a sea otter is detected outside the EZ and, based on its position and motion relative to the noise-generating work, appears likely to enter the EZ but has not yet done so, operators may reduce power to noise-generating equipment as an alternative to a shutdown.

(ii) Whenever a sea otter is detected in the SZ, an operator may power down when practicable to reduce Level B take.

(iii) During a power-down of seismic work, the number of airguns in use may be reduced, such that the EZ is reduced, making the sea otters unlikely to enter the EZ. A mitigation airgun (airgun of small volume such as the 10-in^3 gun) will be operated continuously during a power-down of seismic work.

(iv) After a power down, noise-generating work will not resume until the sea otter has cleared the applicable EZ. The animal will be considered to have cleared the applicable zone if it is visually observed to have left the EZ and has not been seen within the zone for 30 minutes.

(7) *Shutdown procedure.* A shutdown occurs when all noise-generating work is suspended.

(i) Noise-generating work will be shut down completely if a sea otter enters the EZ.

(ii) The shutdown procedure will be accomplished within several seconds of the determination that a sea otter is either in or about to enter the EZ.

(iii) Noise-generating work will not proceed until all sea otters have cleared the EZ and the PSOs on duty are confident that no sea otters remain within the EZ. An otter will be considered to have cleared the EZ if it is visually observed to have left the EZ

or has not been seen within the zone for 30 minutes.

(iv) Visual monitoring must continue for 30 minutes after use of the acoustic source ceases or the sun sets, whichever is later.

(8) *Emergency shutdown.* If observations are made or credible reports are received that one or more sea otters are within the area of noise-generating work and are indicating acute distress associated with the work, such as any injury due to seismic noise or persistent vocalizations indicating separation of mother from pup, the work will be immediately shut down and the Service contacted. Work will not be restarted until review and approval by the Service.

(c) *Mitigation for all in-water construction and demolition activity.* (1) The applicant must implement a minimum EZ of a 10-m radius around the in-water construction and demolition. If a sea otter comes within or approaches the EZ, such operations must cease. A larger EZ may be required for some activities, such as blasting, and will be specified in the LOA.

(2) All in-water work along the shoreline shall be conducted during low tide when the site is dewatered to the maximum extent practicable.

(d) *Measures for vessel-based activities.* (1) Vessel operators must take every precaution to avoid harassment of sea otters when a vessel is operating near these animals.

(2) Vessels must remain at least 500 m from rafts of otters whenever possible.

(3) Vessels must reduce speed and maintain a distance of 100 m (328 ft) from all sea otters whenever possible.

(4) Vessels may not be operated in such a way as to separate members of a group of sea otters from other members of the group.

(5) When weather conditions require, such as when visibility drops, vessels must adjust speed accordingly to avoid the likelihood of injury to sea otters.

(6) Vessels in transit and support vessels must use established navigation channels or commonly recognized vessel traffic corridors, and must avoid alongshore travel in shallow water (<20 m) whenever practicable.

(7) All vessels must avoid areas of active or anticipated subsistence hunting for sea otters as determined through community consultations.

(8) Vessel operators must be provided written guidance for avoiding collisions and minimizing disturbances to sea otters. Guidance will include measures identified in paragraphs (d)(1) through (7) of this section.

(e) *Mitigation measures for aircraft activities.* (1) Aircraft must maintain a minimum altitude of 305 m (1,000 ft) to avoid unnecessary harassment of sea otters, except during takeoff and landing, and when a lower flight altitude is necessary for safety due to weather or restricted visibility.

(2) Aircraft may not be operated in such a way as to separate members of a group of sea otters from other members of the group.

(3) All aircraft must avoid areas of active or anticipated subsistence hunting for sea otters as determined through community consultations.

§ 18.138 Monitoring.

(a) Operators shall work with PSOs to apply mitigation measures, and shall recognize the authority of PSOs, up to and including stopping work, except where doing so poses a significant safety risk to personnel.

(b) Duties of PSOs include watching for and identifying sea otters, recording observation details, documenting presence in any applicable monitoring zone, identifying and documenting potential harassment, and working with operators to implement all appropriate mitigation measures.

(c) A sufficient number of PSOs will be available to meet the following criteria: 100 percent monitoring of EZs during all daytime periods of underwater noise-generating work; a maximum of 4 consecutive hours on watch per PSO; a maximum of approximately 12 hours on watch per day per PSO.

(d) All PSOs will complete a training course designed to familiarize individuals with monitoring and data collection procedures. A field crew leader with prior experience as a sea otter observer will supervise the PSO team. Initially, new or inexperienced PSOs will be paired with experienced PSOs so that the quality of marine mammal observations and data recording is kept consistent. Resumes for candidate PSOs will be made available for the Service to review.

(e) Observers will be provided with reticule binoculars (10×42), big-eye binoculars or spotting scopes (30×), inclinometers, and range finders. Field guides, instructional handbooks, maps and a contact list will also be made available.

(f) Observers will collect data using the following procedures:

(1) All data will be recorded onto a field form or database.

(2) Global positioning system data, sea state, wind force, and weather will be collected at the beginning and end of a monitoring period, every hour in between, at the change of an observer, and upon sightings of sea otters.

(3) Observation records of sea otters will include date; time; the observer's locations, heading, and speed (if moving); weather; visibility; number of animals; group size and composition (adults/juveniles); and the location of the animals (or distance and direction from the observer).

(4) Observation records will also include initial behaviors of the sea otters, descriptions of project activities and underwater sound levels being generated, the position of sea otters relative to applicable monitoring and mitigation zones, any mitigation measures applied, and any apparent reactions to the project activities before and after mitigation.

(5) For all otters in or near a mitigation zone, observers will record the distance from the vessel to the sea otter upon initial observation, the duration of the encounter, and the distance at last observation in order to monitor cumulative sound exposures.

(6) Observers will note any instances of animals lingering close to or traveling with vessels for prolonged periods of time.

§ 18.139 Reporting requirements.

(a) Operators must notify the Service at least 48 hours prior to commencement of activities.

(b) Weekly reports will be submitted to the Service during in-water seismic activities. The reports will summarize project activities, monitoring efforts conducted by PSOs, the number of sea otters detected, the number exposed to sound levels greater than 160 dB, and descriptions of all behavioral reactions of sea otters to project activities.

(c) Monthly reports will be submitted to the Service MMM for all months during which noise-generating work takes place. The monthly report will contain and summarize the following information: Dates, times, weather, and sea conditions (including Cook Inlet marine state and wind force) when sea otters were sighted; the number, location, distance from the sound source, and behavior of the otters; the associated project activities; and a description of the implementation and effectiveness of mitigation measures with a discussion of any specific behaviors the otters exhibited in response to mitigation.

(d) A final report will be submitted to the Service within 90 days after the expiration of each LOA. It will include the following items:

(1) Summary of monitoring efforts (hours of monitoring, activities monitored, number of PSOs, and, if

requested by the Service, the daily monitoring logs).

(2) All project activities will be described, along with any additional work yet to be done. Factors influencing visibility and detectability of marine mammals (*e.g.,* sea state, number of observers, and fog and glare) will be discussed.

(3) The report will also address factors affecting the presence and distribution of sea otters (*e.g.,* weather, sea state, and project activities). An estimate will be included of the number of sea otters exposed to noise at received levels greater than or equal to 160 dB (based on visual observation).

(4) The report will describe changes in sea otter behavior resulting from project activities and any specific behaviors of interest.

(5) It will provide a discussion of the mitigation measures implemented during project activities and their observed effectiveness for minimizing impacts to sea otters. Sea otter observation records will be provided to the Service in the form of electronic database or spreadsheet files.

(6) The report will also evaluate the effectiveness of the POC (if applicable) for preventing impacts to subsistence users of sea otters, and it will assess any effects the operations may have had on the availability of sea otters for subsistence harvest.

(e) All reports shall be submitted by email to *fw7_mmm_reports@fws.gov.*

(f) Injured, dead, or distressed sea otters that are not associated with project activities (*e.g.,* animals known to be from outside the project area, previously wounded animals, or carcasses with moderate to advanced decomposition or scavenger damage) must be reported to the Service within 48 hours of the discovery to either the Service MMM (1–800–362–5148, business hours); or the Alaska SeaLife Center in Seward (1–888–774–7325, 24 hrs.); or both. Photographs, video, location information, or any other available documentation shall be provided to the Service.

(g) Operators must notify the Service upon project completion or end of the work season.

§ 18.140 Measures to reduce impacts to subsistence users.

(a) Prior to conducting the work, the applicant will take the following steps to reduce potential effects on subsistence harvest of sea otters:

(1) Avoid work in areas of known sea otter subsistence harvest;

(2) Discuss the planned activities with subsistence stakeholders including Cook Inlet villages, traditional councils, and the Cook Inlet Regional Citizens Advisory Council; and

(3) Identify and work to resolve concerns of stakeholders regarding the project's effects on subsistence hunting of sea otters; and

(b) If any unresolved or ongoing concerns remain, develop a POC in consultation with the Service and subsistence stakeholders to address these concerns.

§ 18.141 Information collection requirements.

(a) We may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. OMB has approved the collection of information contained in this subpart and assigned OMB control number 1018–0070. You must respond to this information collection request to obtain a benefit pursuant to section 101(a)(5) of the Marine Mammal Protection Act. We will use the information to:

(1) Evaluate the application and determine whether or not to issue specific LOAs; and

(2) Monitor impacts of activities and effectiveness of mitigation measures conducted under the LOAs.

(b) Comments regarding the burden estimate or any other aspect of the information collection and recordkeeping requirements in this subpart must be submitted to the Information Collection Clearance Officer, U.S. Fish and Wildlife Service, at the address listed in 50 CFR 2.1.

Dated: March 12, 2019.

Andrea Travnicek,

Principal Deputy Assistant Secretary for Fish and Wildlife and Parks, exercising the authority of the Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 2019–05127 Filed 3–18–19; 8:45 am]

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FEDERAL REGISTER

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Part IV

The President

Executive Order 13863—Taking Additional Steps to Address the National Emergency With Respect to Significant Transnational Criminal Organizations

Federal Register
Vol. 84, No. 53
Tuesday, March 19, 2019

Presidential Documents

Title 3—

The President

Executive Order 13863 of March 15, 2019

Taking Additional Steps to Address the National Emergency With Respect to Significant Transnational Criminal Organizations

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*), the National Emergencies Act (50 U.S.C. 1601 *et seq.*), and section 301 of title 3, United States Code;

I, DONALD J. TRUMP, President of the United States of America, in order to take additional steps to deal with the national emergency with respect to significant transnational criminal organizations declared in Executive Order 13581 of July 24, 2011 (Blocking Property of Transnational Criminal Organizations), in view of the evolution of these organizations as well as the increasing sophistication of their activities, which threaten international political and economic systems and pose a direct threat to the safety and welfare of the United States and its citizens, and given the ability of these organizations to derive revenue through widespread illegal conduct, including acts of violence and abuse that exhibit a wanton disregard for human life as well as many other crimes enriching and empowering these organizations, hereby order:

Section 1. Subsection (e) of section 3 of Executive Order 13581 is hereby amended to read as follows:

''(e) the term ''significant transnational criminal organization'' means a group of persons that includes one or more foreign persons; that engages in or facilitates an ongoing pattern of serious criminal activity involving the jurisdictions of at least two foreign states, or one foreign state and the United States; and that threatens the national security, foreign policy, or economy of the United States.''

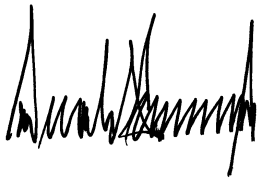
Sec. 2. (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.



THE WHITE HOUSE,
March 15, 2019.

[FR Doc. 2019–05370
3–18–19; 11:15 am]
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