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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2018–0920; Product Identifier 2016–NE–09–AD; Amendment 39–19605; AD 2019–06–07]

RIN 2120–AA64

Airworthiness Directives; Pratt & Whitney Division Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are superseding Airworthiness Directive (AD) 2016–22–05 for certain Pratt & Whitney Division (PW) PW4164, PW4164–1D, PW4168, PW4168–1D, PW4168A, PW4168A–1D, and PW4170 model turbofan engines. AD 2016–22–05 required initial and repetitive inspections of the affected fuel nozzles and their replacement with parts eligible for installation. This AD requires initial and repetitive inspections of the affected fuel nozzles and fuel nozzle supply manifold assemblies, replacement of the affected fuel nozzles with parts eligible for installation, and the installation of new brackets and clamps on the fuel nozzle supply manifold assemblies. This AD was prompted by several instances of fuel leaks on PW engines with the Talon IIB combustion chamber configuration installed. We are issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective May 2, 2019.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of May 2, 2019.

The Director of the Federal Register approved the incorporation by reference of a certain other publication listed in this AD as of December 6, 2016 (81 FR 75686, November 1, 2016).

ADDRESSES: For service information identified in this final rule, contact Pratt & Whitney Division, 400 Main St., East Hartford, CT 06108; phone: 860–565–8770; fax: 860–565–4503. You may view this service information at the FAA, Engine and Propeller Standards Branch, 1200 District Avenue, Burlington, MA 01803. For information on the availability of this material at the FAA, call 781–238–7759. It is also available on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0920.

Examining the AD Docket

You may examine the AD docket on the internet at *http://www.regulations.gov*by searching for and locating Docket No. FAA–2018–0920; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the regulatory evaluation, any comments received, and other information. The address for Docket Operations (phone: 800–647–5527) is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Scott Hopper, Aerospace Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA 01803; phone: 781–238–7154; fax: 781–238–7199; email: *scott.hopper@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 2016–22–05, Amendment 39–18694 (81 FR 75686, November 1, 2016), (''AD 2016–22–05''). AD 2016–22–05 applied to certain PW PW4164, PW4164–1D, PW4168, PW4168–1D, PW4168A, PW4168A–1D, and PW4170 model turbofan engines. The NPRM published in the **Federal Register** on November 19, 2018 (83 FR 58194). The NPRM was prompted by several instances of fuel leaks on PW engines with the Talon IIB combustion chamber configuration installed. The fuel leaks were the result of cracks in the fuel nozzle braze joint and cracks in the fuel manifold tube adjacent to the elbow fitting. The NPRM proposed to require initial and repetitive inspections of the affected fuel nozzles and fuel nozzle supply manifold assemblies, replacement of the affected fuel nozzles with parts eligible for installation, and the installation of new brackets and clamps on the fuel nozzle supply manifold assemblies. We are issuing this AD to address the unsafe condition on these products.

Comments

We gave the public the opportunity to participate in developing this AD. The following presents the comments received on the NPRM and the FAA's response to each comment.

Request To Identify Causes of Fuel Leaks

PW requested that we identify the two potential causes of the fuel leaks, cracks in the fuel nozzle braze joint and cracks in the fuel manifold tube adjacent to the elbow fitting, in the ''Actions Since 2016–22–05 Was Issued'' paragraph of the NPRM.

We agree that updating the ''Actions Since 2016–22–05 Was Issued'' paragraph based on the request would better identify the two potential causes of the fuel leaks. We did not update the ''Actions Since AD 2017–20–01 Was Issued'' paragraph, however, because this language is not included in this final rule. Instead, we updated the Discussion paragraph to identify the two potential causes of the leaks.

Request To Correct Acronym Typographical Error

PW and Delta Air Lines (Delta) requested that we correct the acronym for the ring case compressor from ''RRC'' to ''RCC'' in the Applicability paragraph of this AD.

We agree and corrected the acronym in this AD.

Request To Update the Labor Work Hours

Delta requested that we update the 16 labor work-hours identified in the ''Estimated costs'' table of this AD to match the 40 man-hours identified in the Manpower paragraph of Pratt & Whitney Service Bulletin (SB) PW4G–100–73–48, Revision No. 1, dated April 24, 2018.

We disagree. Like the service information, the ''Estimated costs'' table of this AD separates the cost of the actions. The 16 work-hours of this AD

reflects only replacing the fuel nozzle supply manifold assemblies and installing the new clamps and brackets. These work hours do not reflect any additional actions, such as opening and closing the cowl doors or using the Aircraft Maintenance Manual (AMM). We did not change this AD.

Request To Clarify the Applicability Paragraph

SR Technics Switzerland Ltd. (SR Technics) requested that we update paragraphs (c)(1) to (4) of this AD to include the phrase ''that have SB PW4G–100–73–48 Rev. 1 not fully introduced.'' SR Technics expressed concern that operators who have replaced the fuel nozzle with an eligible part may not comply with the additional requirement to replace fuel nozzle supply manifold assemblies and install new brackets and clamps.

PW and Delta requested that we clarify that engines that have already replaced fuel nozzle part number (P/N) 51J345 per Pratt & Whitney Alert Service Bulletin (ASB) PW4G–100–A73–47, dated March 10, 2017, only have to complete the replacement of the fuel nozzle supply manifold assemblies, and the installation of new brackets and clamps on the fuel nozzle supply manifold assemblies per Pratt & Whitney SB PW4G–100–73–48, Revision No. 1, dated April 24, 2018.

We partially agree. We disagree with including the phrase suggested by SR Technics in the Applicability of this AD because we found it clearer to move the requirement to a separate paragraph. We agree with clarifying that engines with the new fuel nozzles installed only require the installation of the new fuel nozzle supply manifold assemblies, brackets, and clamps. We revised this AD by moving the requirement to replace the fuel nozzle supply manifold assemblies and to install new brackets and clamps from paragraph (g)(2)(ii) in the NPRM into a separate paragraph (g)(3) in this AD.

Request To Publish a Separate AD

Delta requested that we publish a separate AD for the replacement of the fuel nozzle supply manifold assemblies, and the installation of new brackets and clamps on the fuel nozzle supply manifold assemblies per Pratt & Whitney SB PW4G–100–73–48, Revision No. 1, dated April 24, 2018. Delta indicated that per the Applicability paragraph of this proposed rule, engines that have already met the intent of PW ASB PW4G–100–A73–47 and therefore do not have fuel nozzle P/N 51J345 installed are not applicable.

We disagree that it is necessary to publish a separate AD to mandate replacement of the fuel nozzle supply manifold assemblies and installation of new brackets and clamps. As noted above, however, we have revised this AD by creating a separate paragraph (g)(3) to clarify the requirement for replacement of the fuel nozzle supply manifold assemblies, and the installation of new brackets and clamps.

Request To Revise the Compliance Time

PW commented that it disagreed with the compliance time proposed in the NPRM. For replacement of the fuel nozzles, PW requested that we revise the compliance time from 24 months after the effective date of this AD, as proposed in the NPRM, to April 1, 2019. This revised compliance time would match the compliance time in Pratt & Whitney ASB PW4G–100–A73–47, dated March 10, 2017. PW reasoned that the majority of the fleet is adhering to the April 1, 2019, compliance time and extending the compliance to 24 months is too lenient.

We disagree. The PW safety risk assessment for this AD supports a compliance time of 24-months after the effective date of this AD for replacement of the fuel nozzles. Although certain operators may comply by April 1, 2019, the 24-months compliance time meets the safety intent of this AD. We did not change this AD.

PW also requested that we revise the compliance time to install the fuel nozzle supply manifold assembly, brackets, and clamps to the next shop visit, not to exceed September 30, 2024, whichever occurs first. This compliance time would also be consistent with Pratt & Whitney SB PW4G–100–73–48, Revision No. 1, dated April 24, 2018. PW reasoned that after further analysis, including reassessment of the risk associated with the vibratory stress cracking of the manifolds, they will publish a revision to their service information.

We agree. PW's analysis and updated safety risk support extending the compliance time to replace the fuel nozzle supply manifold assembly, brackets, and clamps. We revised this requirement from ''At the next shop visit or within 24 months after the effective date of this AD, whichever comes first. . . .'' to ''At the next shop visit or within 60 months after the effective date of this AD, whichever comes first. . . .''

Request To Remove Wording From Terminating Action Paragraph

PW and Delta requested that we update the Terminating Action paragraph of this AD to remove the replacement of the manifold supply assemblies and installation of the brackets and clamps. Delta noted that the fuel nozzle and fuel nozzle supply manifold assembly failure modes as described by their respective Pratt & Whitney SBs PW4G–100–A73–47 and PW4G–100–73–48 are not the same. The commenters further reasoned that the repetitive inspections specified in paragraph (g)(1) of the NPRM apply only to the fuel nozzle.

We agree. We removed the replacement of the manifold supply assemblies and installation of the brackets and clamps as terminating actions for this AD.

Request To Correct the Part Terminology for Consistency

Delta noted that we used the term ''fuel nozzle manifold supply assemblies'' and ''fuel supply manifolds'' in the NPRM and requested that the term ''fuel nozzle supply manifold assembly'' be used to be consistent with the service information.

We agree. We revised this AD to refer to ''fuel nozzle supply manifold assembly.''

Request To Separate Required Actions To Allow Alternate Tool

Delta requested that we separate the actions identified in paragraph (g)(2)(ii) of the NPRM (paragraph (g)(3) of this AD), into two steps: 1. Replace the fuel nozzle supply manifold assemblies, and 2. Install the new brackets and clamps on the fuel nozzle supply manifold assemblies. Delta reasoned that this AD specifies using service information that will only allow the use of a backup wrench to install the fuel nozzle supply manifold assemblies. Delta and PW, however, have developed an alternate tool to install the fuel nozzle supply manifold assemblies to reduce the risk of over-torqueing.

We disagree. While the service information references a backup wrench, it does not specify the P/N of the tool to use. Therefore, 14 CFR part 43 allows for the use of alternate, FAA-approved, tools. We did not change this AD.

Request To Allow Use of Later Revisions of Service Information

Delta requested that we add the phrase ''or later per subsequent SBs'' to paragraph (h)(2) of this AD to remove the need to submit alternative methods

of compliance requests in response to future redesigns of the fuel nozzles.

We disagree. We are authorized to require the use of service information that we have reviewed and which are published. Since later revisions of the service information are not yet published, we are not authorized to require their use. We did not change this AD.

Support for the AD

The Air Line Pilots Association expressed support for the NPRM as written.

Conclusion

We reviewed the relevant data, considered the comments received, and determined that air safety and the public interest require adopting this AD with the changes described previously and minor editorial changes. We have determined that these minor changes:

- Are consistent with the intent that was proposed in the NPRM for addressing the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM.

We also determined that these changes will not increase the economic burden on any operator or increase the scope of this AD.

Related Service Information Under 1 CFR Part 51

We reviewed Pratt & Whitney ASB PW4G–100–A73–45, dated February 16, 2016; Pratt & Whitney ASB PW4G–100–A73–47, dated March 10, 2017; and Pratt & Whitney SB PW4G–100–73–48, Revision No. 1, dated April 24, 2018. Pratt & Whitney ASB PW4G–100–A73–45 describes procedures for inspecting and replacing the fuel nozzles. Pratt & Whitney ASB PW4G–100–A73–47 describes procedures for replacing the fuel nozzle and support assembly. Pratt & Whitney SB PW4G–100–73–48 describes procedures for replacing the fuel nozzle supply manifold assemblies and installing new brackets and clamps on the manifolds. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Costs of Compliance

We estimate that this AD affects 72 engines installed on airplanes of U.S. registry.

We estimate the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspect fuel nozzles	2.2 work-hours × $85 per hour = $187	$0	$187	$13,464
Open and close cowl doors (on-wing)	1 work-hour × $85 per hour = $85	0	85	6,120
Remove and replace (24) fuel nozzles	48 work-hours × $85 per hour = $4,080	423,471	427,551	30,783,672
Remove and re-install necessary hardware according to AMM.	23 work-hours × $85 per hour = $1,955	0	1,955	140,760
Replace Fuel Nozzle Supply Manifold Assemblies and install new clamps/brackets.	16 work-hours × $85 per hour = $1,360	77,159	78,519	5,653,368

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, Section 106, describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701, ''General requirements.'' Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

This AD is issued in accordance with authority delegated by the Executive Director, Aircraft Certification Service, as authorized by FAA Order 8000.51C. In accordance with that order, issuance of ADs is normally a function of the Compliance and Airworthiness Division, but during this transition period, the Executive Director has delegated the authority to issue ADs applicable to engines, propellers, and associated appliances to the Manager, Engine and Propeller Standards Branch, Policy and Innovation Division.

Regulatory Findings

We have determined that this AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that this AD:

(1) Is not a ''significant regulatory action'' under Executive Order 12866,

(2) Is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979),

(3) Will not affect intrastate aviation in Alaska, and

(4) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA amends 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

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

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing Airworthiness Directive (AD) 2016–22–05, Amendment 39–18694 (81 FR 75686, November 1, 2016), and adding the following new AD:

2019–06–07 Pratt & Whitney Division: Amendment 39–19605; Docket No. FAA–2018–0920; Product Identifier 2016–NE–09–AD.

(a) Effective Date

This AD is effective May 2, 2019.

(b) Affected ADs

This AD replaces AD 2016–22–05, Amendment 39–18694 (81 FR 75686, November 1, 2016).

(c) Applicability

This AD applies to Pratt & Whitney Division (PW):

(1) PW4164, PW4168, and PW4168A model turbofan engines that have fuel nozzles, part number (P/N) 51J345, installed, and that have any of the following installed: Talon IIB combustion chamber per Pratt & Whitney Service Bulletin (SB) PW4G–100–72–214, dated December 15, 2011; ring case configuration (RCC) high-pressure compressor (HPC) per Pratt & Whitney SB PW4G–100–72–219, Revision No. 1, dated October 5, 2011, or original issue; or the outer combustion chamber assembly waspaloy nuts per Pratt & Whitney SB PW4G–100–72–253, dated November 24, 2014;

(2) PW4168A model engines with Talon IIA outer combustion chamber assembly, P/N 51J100 or 51J382, and fuel nozzles, P/N 51J345, installed;

(3) PW4168A–1D and PW4170 model engines with engine serial numbers P735001 through P735190, inclusive, and fuel nozzles, P/N 51J345, installed;

(4) PW4164–1D, PW4168–1D, PW4168A–1D, and PW4170 model turbofan engines that have installed the RCC HPC per Pratt & Whitney SB PW4G–100–72–220, Revision No. 4, dated September 30, 2011, or earlier revision, and have fuel nozzles, P/N 51J345, installed; and

(5) PW4164, PW4164–1D, PW4168, PW4168–1D, PW4168A, PW4168A–1D, and PW4170 model turbofan engines with fuel nozzle, P/N 51J398, installed, that have not installed the replacement fuel nozzle supply manifold assemblies, and new brackets and clamps on the fuel nozzle supply manifold assemblies per Pratt & Whitney SB PW4G–100–73–48, Revision No. 1, dated April 24, 2018.

(d) Subject

Joint Aircraft System Component (JASC) Code 7310, Engine Fuel Distribution.

(e) Unsafe Condition

This AD was prompted by several instances of fuel leaks on PW engines with the Talon IIB combustion chamber configuration installed. We are issuing this AD to prevent failure of the fuel nozzles. The unsafe condition, if not addressed, could result in engine fire and damage to the airplane.

(f) Compliance

Comply with this AD within the compliance times specified, unless already done.

(g) Required Actions

(1) Within 800 flight hours (FHs) after December 6, 2016 (the effective date of AD 2016–22–05), or before further flight, whichever occurs later, and after that within every 800 FHs accumulated on the fuel nozzles, perform the following:

(i) Inspect all fuel nozzles, P/N 51J345, in accordance with Part A of Pratt & Whitney Alert Service Bulletin (ASB) PW4G–100–A73–45, dated February 16, 2016.

(ii) For any fuel nozzle that fails the inspection, before further flight, remove and replace with a part that is eligible for installation.

(2) At the next shop visit or within 24 months after the effective date of this AD, whichever occurs first, remove all fuel nozzles, P/N 51J345, in accordance with Part A, of Pratt & Whitney ASB PW4G–100–A73–47, dated March 10, 2017, and replace with parts eligible for installation.

(3) At the next shop visit or within 60 months after the effective date of this AD, whichever comes first, replace the fuel nozzle supply manifold assemblies and install the new brackets and clamps on the fuel nozzle supply manifold assembly in accordance with Accomplishment Instructions, ''For Engines Installed on Aircraft'' or ''For Engines Not Installed on Aircraft,'' of Pratt & Whitney SB PW4G–100–73–48, Revision No. 1, dated April 24, 2018.

(h) Definitions

(1) For the purpose of this AD, an ''engine shop visit'' is the induction of an engine into the shop for maintenance involving the separation of pairs of major mating engine case flanges, except for the following situations, which do not constitute an engine shop visit:

(i) Separation of engine flanges solely for the purposes of transportation of the engine without subsequent maintenance.

(ii) Separation of engine flanges solely for the purpose of replacing the fan or propulsor without subsequent engine maintenance.

(2) For the purpose of this AD, a part that is ''eligible for installation'' is a fuel nozzle with a P/N other than 51J345 that is FAA-approved for installation.

(i) Terminating Action

Installation of the eligible fuel nozzles constitutes terminating action for the repetitive inspection requirements of paragraph (g)(1) of this AD.

(j) Alternative Methods of Compliance (AMOCs)

(1) The Manager, ECO Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the certification office, send it to the attention of the person identified in paragraph (k) of this AD. You may email your request to: *ANE-AD-AMOC@faa.gov.*

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(k) Related Information

For more information about this AD, contact Scott Hopper, Aerospace Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA 01803; phone: 781–238–7154; fax: 781–238–7199; email: *scott.hopper@faa.gov.*

(l) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference (IBR) of the service information listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this service information as applicable to do the actions required by this AD, unless the AD specifies otherwise.

(3) The following service information was approved for IBR on May 2, 2019.

(i) Pratt & Whitney Alert Service Bulletin (ASB) PW4G–100–A73–47, dated March 10, 2017; and

(ii) Pratt & Whitney Service Bulletin PW4G–100–73–48, Revision No. 1, dated April 24, 2018.

(4) The following service information was approved for IBR on December 6, 2016.

(i) Pratt & Whitney ASB PW4G–100–A73–45, dated February 16, 2016.

(ii) [Reserved]

(5) For Pratt & Whitney service information identified in this AD, contact Pratt & Whitney Division, 400 Main St., East Hartford, CT 06108; phone: 860–565–8770; fax: 860–565–4503.

(6) You may view this service information at FAA, Engine and Propeller Standards Branch, 1200 District Avenue, Burlington, MA 01803. For information on the availability of this material at the FAA, call 781–238–7759.

(7) You may view this service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued in Burlington, Massachusetts, on March 22, 2019.

Karen M. Grant,

Acting Manager, Engine and Propeller Standards Branch, Aircraft Certification Service.

[FR Doc. 2019–05905 Filed 3–27–19; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2018–1010; Product Identifier 2018–NM–148–AD; Amendment 39–19596; AD 2019–05–14]

RIN 2120–AA64

Airworthiness Directives; Dassault Aviation Airplanes

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

ACTION: Final rule; removal of Airworthiness Directive (AD).

SUMMARY: We are removing AD 2012–02–18, which applied to all Dassault

Aviation Model MYSTERE–FALCON 50 airplanes. AD 2012–02–18 required revising the maintenance program to include revised airworthiness limitations. We issued AD 2012–02–18 to address cracking of the flap tracks, which could lead to flap asymmetry and loss of control of the airplane. Since we issued AD 2012–02–18, we have issued AD 2017–09–03 to address the unsafe condition. Accordingly, AD 2012–02–18 is removed.

DATES: This AD becomes effective March 28, 2019.

ADDRESSES:

Examining the AD Docket

You may examine the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–1010; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The address for Docket Operations (telephone 800–647–5527) is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Tom Rodriguez, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3226.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by removing AD 2012–02–18, Amendment 39–16941 (77 FR 12175, February 29, 2012) (''AD 2012–02–18''). AD 2012–02–18 applied to all Dassault Aviation Model MYSTERE–FALCON 50 airplanes. The NPRM published in the **Federal Register** on December 28, 2018 (83 FR 67155). The NPRM was prompted by a determination that AD 2012–02–18 is no longer necessary because we have since issued AD 2017–09–03, Amendment 39–18865 (82 FR 21467, May 9, 2017) to address the unsafe condition. The NPRM proposed to remove AD 2012–02–18. We are issuing this AD to remove AD 2012–02–18.

Comments

We gave the public the opportunity to participate in developing this AD. We received no comments on the NPRM or on the determination of the cost to the public.

Conclusion

We reviewed the relevant data and determined that air safety and the public interest require adopting this AD as proposed except for minor editorial changes. We have determined that these minor changes:

- Are consistent with the intent that was proposed in the NPRM for addressing the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. ''Subtitle VII: Aviation Programs,'' describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in ''Subtitle VII, Part A, Subpart III, Section 44701: General requirements.'' Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority.

This AD is issued in accordance with authority delegated by the Executive Director, Aircraft Certification Service, as authorized by FAA Order 8000.51C. In accordance with that order, issuance of ADs is normally a function of the Compliance and Airworthiness Division, but during this transition period, the Executive Director has delegated the authority to issue ADs applicable to transport category airplanes and associated appliances to the Director of the System Oversight Division.

Regulatory Findings

We determined that this AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that this AD:

1. Is not a ''significant regulatory action'' under Executive Order 12866;
2. Is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979);
3. Will not affect intrastate aviation in Alaska; and
4. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA amends 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

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

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing Airworthiness Directive (AD) 2012–02–18, Amendment 39–16941 (77 FR 12175, February 29, 2012), and adding the following new AD:

2019–05–14 Dassault Aviation: Amendment 39–19596; Docket No. FAA–2018–1010; Product Identifier 2018–NM–148–AD.

(a) Effective Date

This AD becomes effective March 28, 2019.

(b) Affected ADs

This AD removes AD 2012–02–18, Amendment 39–16941 (77 FR 12175, February 29, 2012).

(c) Applicability

This AD applies to Dassault Aviation Model MYSTERE–FALCON 50 airplanes, all serial numbers, certificated in any category.

(d) Related Information

For more information about this AD, contact Tom Rodriguez, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3226.

Issued in Des Moines, Washington, on March 18, 2019.

Michael Kaszycki,

Acting Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2019–05890 Filed 3–27–19; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2019–0151; Product Identifier 2019–NE–04–AD; Amendment 39–19604; AD 2019–06–06]

RIN 2120–AA64

Airworthiness Directives; International Aero Engines AG Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: We are adopting a new airworthiness directive (AD) for all International Aero Engines AG (IAE) V2500 turbofan engine models. This AD requires initial and repetitive borescope inspections (BSIs) of the diffuser case M-flange and, if it fails the inspection, replacement of the diffuser case with a part eligible for installation. This AD was prompted by a crack found at the diffuser case M-flange during overhaul inspection. We are issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective April 12, 2019.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of April 12, 2019.

We must receive comments on this AD by May 13, 2019.

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.
- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this final rule, contact International Aero Engines AG, 400 Main Street, East Hartford, CT 06118; phone: 800–565–0140; email: *help24@pw.utc.com;* internet: *http://fleetcare.pw.utc.com.* You may view this service information at the FAA, Engine and Propeller Standards Branch, 1200 District Avenue, Burlington, MA 01803. For information on the availability of this material at the FAA, call 781–238–7759. It is also available on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2019–0151.

Examining the AD Docket

You may examine the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2019–0151; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations (phone: 800–647–5527) is listed above. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Barbara Caufield, Aerospace Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA 01803; phone: 781–238–7146; fax: 781–238–7199; email: *barbara.caufield@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

We received a report that a crack at the diffuser case M-flange was found during overhaul inspection. Analysis by IAE found that the cracks were a result of pressure loads in the case wall combined with thermal gradients in the M-flange. This condition, if not addressed, could result in uncontained diffuser case rupture, damage to the engine, and damage to the airplane. We are issuing this AD to address the unsafe condition on these products.

Related Service Information Under 1 CFR Part 51

We reviewed IAE Alert Non-Modification Service Bulletin (NMSB) V2500–ENG–72–A0706, dated February 14, 2019. The NMSB describes procedures for inspecting the diffuser case M-flange. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

FAA's Determination

We are issuing this AD because we evaluated all the relevant information and determined the unsafe condition described previously is likely to exist or develop in other products of the same type design.

AD Requirements

This AD requires initial and repetitive BSI of the diffuser case M-flange and, if it fails the inspection, replacement of the diffuser case with a part eligible for installation.

FAA's Justification and Determination of the Effective Date

An unsafe condition exists that requires the immediate adoption of this AD without providing an opportunity for public comments prior to adoption. The FAA has found that the risk to the flying public justifies waiving notice and comment prior to adoption of this rule because certain IAE V2500 turbofan engine models require inspection within 250 cycles to prevent rupture of the diffuser case and damage to the engine. Therefore, we find good cause that notice and opportunity for prior public comment are impracticable. In addition, for the reason stated above, we find that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

This AD is a final rule that involves requirements affecting flight safety and was not preceded by notice and an opportunity for public comment. However, we invite you to send any written data, views, or arguments about this final rule. Send your comments to an address listed under the **ADDRESSES** section. Include the docket number FAA–2019–0151 and Product Identifier 2019–NE–04–AD at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this final rule. We will consider all comments received by the closing date and may amend this final rule because of those comments.

We will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this final rule.

Costs of Compliance

We estimate that this AD affects 1,654 engines installed on airplanes of U.S. registry.

We estimate the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Borescope inspection	1.8 work-hours × $85 per hour = $153	$0	$153	$253,062

We estimate the following costs to do any necessary replacements that would be required based on the results of the inspection. We have no way of determining the number of aircraft that might need this replacement:

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Replacement of the diffuser case	20 work-hours × $85 per hour = $1,700	$48,300	$50,000

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. ''Subtitle VII: Aviation Programs'' describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701: ''General requirements.'' Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

This AD is issued in accordance with authority delegated by the Executive Director, Aircraft Certification Service, as authorized by FAA Order 8000.51C. In accordance with that order, issuance of ADs is normally a function of the Compliance and Airworthiness Division, but during this transition period, the Executive Director has delegated the authority to issue ADs applicable to engines, propellers, and associated appliances to the Manager, Engine and Propeller Standards Branch, Policy and Innovation Division.

Regulatory Findings

This AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that this AD:

(1) Is not a ''significant regulatory action'' under Executive Order 12866,

(2) Is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979),

(3) Will not affect intrastate aviation in Alaska, and

(4) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA amends 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

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

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new airworthiness directive (AD):

2019–06–06 International Aero Engines AG: Amendment 39–19604; Docket No. FAA–2019–0151; Product Identifier 2019–NE–04–AD.

(a) Effective Date

This AD is effective April 12, 2019.

(b) Affected ADs

None.

(c) Applicability

This AD applies to International Aero Engines AG (IAE) V2500–A1, V2522–A5, V2524–A5, V2525–D5, V2527–A5, V2527E–A5, V2527M–A5, V2528–D5, V2530–A5, V2533–A5 turbofan engines.

(d) Subject

Joint Aircraft System Component (JASC) Code 7240, Turbine Engine Combustion Section.

(e) Unsafe Condition

This AD was prompted by a crack found at the diffuser case M-flange during overhaul inspection. We are issuing this AD to prevent failure of the diffuser case. The unsafe condition, if not addressed, could result in uncontained diffuser case rupture, damage to the engine, and damage to the airplane.

(f) Compliance

Comply with this AD within the compliance times specified, unless already done.

(g) Required Actions

(1) For diffuser cases with a rear outer flange that is equal to or greater than 20,000 cycles since new (CSN) on the effective date of this AD, perform an initial borescope inspection (BSI) of zones 1, 2, and 3 of the diffuser case M-flange before accumulating the BSI Within (Cycles) listed in Table 1 to paragraph (g)(1) of this AD. Use the Accomplishment Instructions, paragraphs 2.A. through 2.G. for the appropriate engine model, of IAE Alert Non-Modification Service Bulletin (NMSB) V2500–ENG–72–A0706, dated February 14, 2019, to perform the inspection.

Table 1 to paragraph (g)(1) of this AD – *M-flange cycle inspection limits*

CSLFPI (cycles since last fluorescent penetrant inspection) on the rear outer flange	BSI Within (Cycles)
30,000 and greater	250
20,000 to 29,999	500
15,000 to 19,999	1,000
1 to 14,999	1,300
0	2,100

(2) For diffuser cases with a rear outer flange that have fewer than 20,000 CSN on the effective date of this AD, perform an initial BSI of zones 1, 2, and 3 of the diffuser case M-flange within 21,300 CSN, in accordance with the Accomplishment Instructions, paragraphs 2.A. through 2.G. for the appropriate engine model, of IAE Alert NMSB V2500–ENG–72–A0706, dated February 14, 2019.

(3) If no cracks are found, perform a repetitive BSI not to exceed every 2,100 cycles since the previous BSI.

(4) If cracks are found, remove the diffuser case and replace with a part eligible for installation or repeat the BSI within the intervals in either Table 2: Fly on Limits or Table 4: Fly on Limits, as appropriate for the affected the engine model, of IAE Alert NMSB V2500–ENG–72–A0706, dated February 14, 2019.

(h) Credit for Previous Actions

You may take credit for the actions that are required by paragraph (g)(1) and (2) of this AD, if you performed those actions before the effective date of this AD using IAE V2500 Special Instruction (SI) No. 350F–18, Rev. 1, dated December 17, 2018; IAE V2500 SI No. 356F–18, Rev. 1, dated January 9, 2019; IAE V2500 SI No. 372F–18, dated January 8, 2019; or IAE V2500 Special SI No. 04F–19, dated January 14, 2019.

(i) Alternative Methods of Compliance (AMOCs)

(1) The Manager, ECO branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the certification office, send it to the attention of the person identified in paragraph (j) of this AD. You may email your request to: *ANE-AD-AMOC@faa.gov.*

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(j) Related Information

For more information about this AD, contact Barbara Caufield, Aerospace Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA 01803; phone: 781–238–7146; fax: 781–238–7199; email: *barbara.caufield@faa.gov.*

(k) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference (IBR) of the service information listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this service information as applicable to do the actions required by this AD, unless the AD specifies otherwise.

(i) International Aero Engines (IAE) Alert Non-Modification Service Bulletin V2500–ENG–72–A0706, dated February 14, 2019.

(ii) [Reserved]

(3) For IAE service information identified in this AD, contact International Aero Engines AG, 400 Main Street, East Hartford, CT, 06118; phone: 800–565–0140; email: *help24@pw.utc.com;* internet: *http://fleetcare.pw.utc.com.*

(4) You may view this service information at FAA, Engine & Propeller Standards Branch, 1200 District Avenue, Burlington, MA 01803. For information on the availability of this material at the FAA, call 781–238–7759.

(5) You may view this service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued in Burlington, Massachusetts, on March 22, 2019.

Karen M. Grant,

Acting Manager, Engine and Propeller Standards Branch, Aircraft Certification Service.

[FR Doc. 2019–05885 Filed 3–27–19; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 112

[Docket No. FDA–2019–D–1266]

Produce Safety Rule: Enforcement Policy for Entities Growing, Harvesting, Packing, or Holding Hops, Wine Grapes, Pulse Crops, and Almonds; Guidance for Industry; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notification of availability.

SUMMARY: The Food and Drug Administration (FDA or we) is announcing the availability of an immediately in effect guidance for industry entitled ''Produce Safety Rule: Enforcement Policy for Entities Growing, Harvesting, Packing, or Holding Hops, Wine Grapes, Pulse Crops, and Almonds.'' This document states the intent of FDA to exercise enforcement discretion regarding the requirements of the ''Standards for the Growing, Harvesting, Packing, and Holding of Produce for Human Consumption'' regulation (Produce Safety Regulation) as they apply to entities growing, harvesting, packing, and holding hops, wine grapes, pulse crops, and almonds.

DATES: The announcement of the guidance is published in the **Federal Register** on March 28, 2019.

ADDRESSES: You may submit either electronic or written comments on Agency guidances at any time as follows:

Electronic Submissions

Submit electronic comments in the following way:

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

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

Written/Paper Submissions

Submit written/paper submissions as follows:

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

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

Instructions: All submissions received must include the Docket No. FDA–2019–D–1266 for ''Produce Safety Rule: Enforcement Policy for Entities Growing, Harvesting, Packing, or Holding Hops, Wine Grapes, Pulse Crops, and Almonds: 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.

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)).

Submit written requests for single copies of the guidance to the Center for Food Safety and Applied Nutrition, Food and Drug Administration, 5001 Campus Dr., College Park, MD 20740. Send two self-addressed adhesive labels to assist that office in processing your request. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance.

FOR FURTHER INFORMATION CONTACT: Fazila Shakir, Center for Food Safety and Applied Nutrition, Food and Drug Administration, 5001 Campus Dr., College Park, MD 20740, 240–402–1355.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a guidance for industry entitled ''Produce Safety Rule: Enforcement Policy for Entities Growing, Harvesting, Packing, or Holding Hops, Wine Grapes, Pulse Crops, and Almonds.'' We are issuing the guidance consistent with our good guidance practices regulation (21 CFR 10.115). The guidance represents the current thinking of FDA on this topic. It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations. In accordance with § 10.115(g)(2), we are implementing the guidance immediately because we have determined that prior public participation is not feasible or appropriate. Although the guidance document is immediately in effect, FDA will accept comments at any time. The guidance is not subject to Executive Order 12866.

The FDA Food Safety Modernization Act (Pub. L. 111–353) directs FDA to better protect public health by, among other things, adopting a modern, preventive, and risk-based approach to food safety. The Produce Safety Regulation is a set of science-based minimum standards for the safe growing, harvesting, packing, and holding of fruits and vegetables grown for human consumption. Produce is subject to the Produce Safety Regulation unless it is ''not covered'' or is eligible for an exemption. Produce that is not covered by the Produce Safety Regulation includes that which is rarely consumed raw (21 CFR 112.2(a)(1)), produced for personal or on-farm consumption (21 CFR 112.2(a)(2)), or not a raw agricultural commodity (21 CFR 112.2(a)(3)).

Following the publication of the final rule establishing the Produce Safety Regulation, FDA received feedback from some stakeholders that certain covered commodities—hops, wine grapes, pulse crops, and almonds—should be exempt from the requirements of the Produce Safety Regulation. After conducting an initial review of how hops, wine grapes, pulse crops, and almonds are grown, harvested, packed, held, and used, FDA has decided to exercise enforcement discretion with respect to the Produce Safety Regulation for entities growing, harvesting, packing, or holding those commodities while we consider pursuing rulemaking to address the unique circumstances they each present. This means that we will not expect entities growing, harvesting, packing, or holding these commodities to meet any of the Produce Safety Regulation requirements with respect to these commodities.

We will consider revising our intent to exercise enforcement discretion if, for example, new information becomes available regarding safety concerns associated with the production and consumption of these commodities.

II. Electronic Access

Persons with access to the internet may obtain the guidance at either *https://www.fda.gov/FoodGuidances* or *https://www.regulations.gov.* Use the FDA website listed in the previous sentence to find the most current version of the guidance.

Dated: March 22, 2019.

Lowell J. Schiller,

Acting Associate Commissioner for Policy.

[FR Doc. 2019–05953 Filed 3–27–19; 8:45 am]

BILLING CODE 4164–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R08–OAR–2018–0026; FRL–9991–25–Region 8]

Approval and Promulgation of Air Quality Implementation Plans; North Dakota; Revisions to Air Pollution Control Rules

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving State Implementation Plan (SIP) revisions submitted by the State of North Dakota on January 28, 2013, and November 11, 2016. The revisions include amendments to North Dakota's general provisions, permit to construct, prevention of significant deterioration (PSD) of air quality, oil and gas, and fee regulations. In addition, amendments to the permit program include the regulation of hazardous air pollutants (HAPs), which may be regulated under section 112 of the Clean Air Act (CAA). Thus, the EPA is taking this action pursuant to sections 110 and 112 of the CAA.

DATES: This rule is effective on April 29, 2019.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–R08–OAR–2018–0026. All documents in the docket are listed on the *http://www.regulations.gov* website. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available through *http://www.regulations.gov,* or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

FOR FURTHER INFORMATION CONTACT: Jaslyn Dobrahner, Air Program, U.S. Environmental Protection Agency (EPA), Region 8, Mail Code 8P–AR, 1595 Wynkoop Street, Denver, Colorado 80202–1129, (303) 312–6252, *dobrahner.jaslyn@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

In our notice of proposed rulemaking published on May 14, 2018 (83 FR 22227), the EPA proposed to approve revisions to North Dakota's Air Pollution Control Rules submitted by the State of North Dakota on January 28, 2013, and November 11, 2016. In this rulemaking, we are taking final action to approve various revisions, including: To add a general permit to construct provision,[1] update the definition of ''volatile organic compounds'' and PSD rules; revise permit to construct and PSD public participation methods; clarify applicability of oil and gas regulations; increase the application and processing fees; add a significant emission rate for greenhouse gas carbon dioxide equivalent; add a definition of ''actively producing'' oil and gas wells; remove greenhouse gas provisions relating to the determination of a major source and major modification; remove the expired exemption of greenhouse gases from biogenic sources; and streamline a provision related to oil and gas registration and reporting. The North Dakota State Health Council adopted the amendments on August 14, 2012, (effective January 1, 2013) and February 24, 2016, (effective July 1, 2016) for the January 28, 2013, and November 11, 2016, submittals, respectively. The reasons for our approval are provided in detail in the proposed rule. Additional reasons for our approval of some provisions are provided below in response to public comments received on those topics.

II. Response to Comments

We received two comment letters during the public comment period. After reviewing the comments, the EPA determined that the comments in the first letter are outside the scope of our proposed action and fail to identify any material issue necessitating a response. The remaining comments in the second letter were jointly submitted by the Sierra Club, Center for Biological Diversity, and the National Parks Conservation Association. Below is a summary of the comments and the EPA's responses.

Comment: In general, the commenters assert that the concept of a general construction permit is not consistent with the requirements of Section 110(a)(2)(C) of the CAA or 40 CFR 51.160—51.164 due to the nature of how general permits are established and how sources request coverage under general permits.

Response: We disagree with the commenters' assertion that the concept of a general construction permit is not consistent with the requirements of Section 110(a)(2)(C) of the CAA (requirement that the state SIP contain a program for enforcement of control measures), and 40 CFR 51.160–51.164 (the EPA's regulations relating, in part, to minor source construction). The State's source-specific minor source construction permit program was originally approved as meeting the criteria currently in 40 CFR 51.160–51.163 on May 26, 1977, (42 FR 26977) and as meeting the criteria in 40 CFR 51.164 on November 14, 1988, (53 FR 45763). The North Dakota's SIP-approved minor source construction permit program and other permitting rules are codified at North Dakota Air Pollution Control (NDAC) 33–15–14, *Designated Air Contaminant Sources Permit to Construct Minor Source Permit to Operate, Title V Permit to Operate.*

North Dakota's general permit rule requires that ''[a]ny general permit shall comply with all requirements applicable to other permits to construct.'' Therefore, a general permit would be issued in accordance with essentially the same State rules that apply to sources seeking source-specific permits. The general permit to construct provision specifically excludes major sources subject to permitting requirements under chapter 33–15–13 (*Emission Standards for Hazardous Air*

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[1] North Dakota Air Pollution Control (NDAC) rule 33–15–14–02.1.c reads in its entirety as follows, ''General permits. The department may issue a general permit to construct covering numerous similar sources which are not subject to permitting requirements under chapter 33.1–15–13 or 33.1–15–15 or subpart B of section 33.1–15–22–03. Any general permit shall comply with all requirements applicable to other permits to construct and shall identify criteria by which sources may qualify for the general permit. A proposed general permit, any changes to a general permit, and any renewal of a general permit is subject to public comment. The public comment procedures under subdivision b of subsection 6 shall be used. To sources that qualify, the department shall grant the conditions and terms of the general permit. Sources that would qualify for a general permit must apply to the department for coverage under the terms of the general permit or apply for an individual permit to construct. Without repeating the public participation procedures under subdivision b of subsection 6, the department may grant a source's request for authorization to construct under the general permit.''

Pollutants), 33–15–15 (*Prevention of Significant Deterioration of Air Quality*), or subpart B of 33–15–22–03 (*Emissions Standards for Hazardous Air Pollutants for Source Categories*). Therefore, the general permit rule provides the State with the authority to develop general permits, including for the following three minor source categories: (1) Minor sources of criteria pollutants (potential emissions below the major source thresholds in 33–15–15, true minor sources); (2) minor sources of hazardous air pollutants (potential emissions below the major source thresholds in 33–15–13 and 33–15–22–03, true minor sources); and (3) sources of either criteria or hazardous air pollutants that elect to apply for general permits to limit emissions below major source thresholds (synthetic minor sources).

The EPA has a well-established, longstanding position that the use of general permits for construction of all three categories of minor sources is appropriate under the CAA. The EPA has noted, for example, that an advantage of a SIP general permit is that upon approval by the EPA of the state's general permit program, a general permit could be written for additional source types without triggering the need for the formal SIP revision process.[2] On numerous occasions, the EPA has approved SIPs allowing for the issuance of general permits, including a general permit rule similar to North Dakota's general permit regulations.[3] Moreover, in 2011, the EPA published rules finalizing a Federal Implementation Plan for Indian country and setting forth provisions for the review of new sources and modifications in Indian country, including minor sources.[4] There, the EPA authorized the issuance of general permits in Indian country in appropriate circumstances. The EPA explained that a 'general permit' is a preconstruction permit that may be applied to several similar emissions units or minor sources. The purpose of a general permit is to simplify the permit issuance process for similar facilities so that a reviewing authority's limited resources need not be expended for site-specific permit development for such facilities. A general permit may be written to address a single emissions unit, a group of the same type of emissions units or an entire minor source. General permits offer a cost-effective means of issuing permits and provide a quicker and simpler alternative mechanism for permitting minor sources than the site-specific permitting process discussed previously.[5] Subsequently, in accordance with this general authorization, the EPA issued general permits for various categories of minor sources in Indian country. General Permits and Permits by Rule for the Federal Minor New Source Review Program in Indian Country for Five Source Categories, 80 FR 25068 (May 1, 2015); General Permits and Permits by Rule for the Federal Minor New Source Review Program in Indian Country for Six Source Categories, 81 FR 70944 (Oct. 14, 2016).

The EPA has also issued other memoranda supportive of general permits, including the EPA's January 25, 1995 memorandum ''Options for Limiting Potential to Emit (PTE) of a Stationary Source Under Section 112 and Title V of the Clean Air Act'' [6] (EPA 1995 Memorandum Options to Limit Potential to Emit) and the April 14, 1998 memorandum, ''Potential to Emit (PTE) Guidance for Specific Source Categories.'' [7] These memoranda endorse the use of a general permit program approved into the SIP pursuant to Section 110(a)(2)(C) of the Act as a means of effectively establishing limitations on the potential to emit of stationary sources.[8] As explained in the EPA's January 25, 1995 memorandum ''Guidance on Enforceability Requirements for Limiting Potential to Emit through SIP and § 112 Rules and General Permits'' (EPA 1995 Guidance) a general permit is a single permit that establishes terms and conditions that must be complied with by all sources subject to that permit, providing for emission limitations in a one-time permitting process and avoiding the need to issue separate permits for each source that shares the same characteristics.[9]

Comment: The commenters express concern that North Dakota's general permit to construct regulations do not specify how a source applies for coverage under a general permit (*i.e.,* what source-specific information, if any, is required to be in a permit application) or how the state will evaluate if a source qualifies for a general permit.

Response: We disagree with these concerns. Similar to the EPA's federal minor source general permit in Indian country,[10] North Dakota's general permit rule requires that each general permit to construct ''shall identify the criteria by which sources may qualify for the general permit'' and the State will use those criteria to evaluate whether a source qualifies for the general permit. The nature of the general permit to simplify the permit issuance process for similar facilities so that a reviewing authority's limited resources need not be expended for case-by-case permit development does not provide for the same source-specific procedures as an individual permit to construct. However, North Dakota will provide sufficient public participation opportunities through public comment on the general permit under NDAC 33–15–14–02.

Comment: The commenters suggested that, because North Dakota's general permit to construct regulations do not require public notice and an opportunity to review and comment on (1) source-specific information submitted by sources requesting coverage under the general permit, and (2) North Dakota's analysis and justification for coverage under a general permit, it does not comply with the requirements of 40 CFR 51.161.

[2] For example, *Guidance an Enforceability Requirements for Limiting the Potential to Emit through SIP and § 112 Rules and General Permits.* January 25, 1995 (EPA 1995 Enforceability Memo) (For example, page 4 of the memo explains that s general permit is a single permit that establishes terms and conditions that must be complied with by all sources subject to that permit. The establishment of a general permit could provide for emission limitations in a one-time permitting process, and thus avoid the need to issue separate permits for each source. Although this concept is generally thought of as an element of Title V permit programs there in no reason that a state or local agency could not submit a general permit program as a SIP submittal aimed at creating synthetic minor sources. Additionally, FESOP [Federally Enforceable State Operating Permit usually referring to Title I State Operating Permit Programs approved under the criteria established by the EPA in the June 28, 1989 **Federal Register** notice, 54 FR 27274] programs can include general permits as an element of the FESOP program being approved into the SIP. The advantage of a SIP general permit is that upon approval by the EPA of the state's general permit program, a general permit could be written for an additional source type without triggering the need for the formal SIP revision process. (citing the Jan. 25, 1995 Seitz and Van Heuvelen memorandum, ''Options for Limiting Potential to Emit (PTE) of a Stationary Source under section 112 and title V of the Clean Air Act'', page 4). *https://www.epa.gov/sites/production/files/2015-08/documents/potoem.pdf.*

[3] EPA approved Michigan's general permit rule. See Michigan SIP submittal, April 3, 1998 (in docket) and 83 FR 44485 (August 31, 2018).

[4] 76 FR 38748 (July 1, 2011).

[5] *Id.* at 38767.

[6] *Options for Limiting the Potential to Emit (PTE) of a Stationary Source Under Section 112 and Title V of the Clean Air Act (Act).* January 25, 1995. *https://www.epa.gov/sites/production/files/documents/limit-pte-rpt.pdf.*

[7] *Potential to Emit (PTE) Guidance for Specific Source Categories.* April 14, 1998. *https://www.epa.gov/sites/production/files/2015-08/documents/lowmarch.pdf.*

[8] See also, *Approaches to Creating Federally-Enforceable Emission Limits.* November 3, 1993. *https://www.epa.gov/sites/production/files/2015-08/documents/fedenf.pdf.*

[9] *Guidance on Enforceability Requirements for Limiting Potential to Emit through SIP and § 112 Rules and General Permits.* (January 25, 1995). *https://www.epa.gov/sites/production/files/2015-08/documents/potoem.pdf.*

[10] 40 CFR 49.156(d).

Response: We disagree with the commenters' assertions that the general permit rule does not comply with public notice provisions found in 40 CFR 51.161. As explained in our proposal, the EPA's June 28, 1989 rulemaking ''Requirements for the Preparation, Adoption, and Submittal of Implementation Plans; Approval and Promulgation of Implementation Plans'' [11] and the EPA 1995 Guidance, outline the criteria we use to evaluate general permit to construct rules under the SIP authority or under § 112, or both. One of the criteria addresses the public notice and comment requirements explaining that since the state rule establishing the general permit program does not provide for specific standards to be met by the source, each general permit, but not each application under each general permit, must be issued pursuant to public and EPA notice and comment.[12] North Dakota's general permits must be made available for public comment, and therefore, meet the EPA's public notice and comment requirements for general permits. North Dakota's analysis and justification for issuing a general permit, as it does for a source-specific permit, will include information that pertains to the type of sources that are eligible for coverage by the general permit and that information will be included in the public notice. The public will have an opportunity to review the conditions of the general permit and comment on whether those conditions are appropriate for sources with the characteristics of those eligible for coverage under the general permit. Therefore, the EPA does not agree that the general permitting process would deny the public an opportunity to review and comment, as the public will have an opportunity to comment on the general permit conditions and the State's justification for establishing the general permit for particular source categories (as well as the State's specified criteria for evaluating whether specific sources are covered by the general permit) as a part of the public notice and comment on the general permits.

Comment: The commenters argue that; although North Dakota's general permit to construct regulations are similar to the general permit provision of the Title V operating permits found at 40 CFR 70.6(d) that is commonly used to reduce the administrative burden for the source type and state permitting agency for the issuance of operating permits; construction permits are required to include a source-specific and site-specific review of impacts on ambient air quality. Thus, North Dakota's general permit to construct regulations, according to the commenters, do not meet the applicable federal and CAA requirements because the State's air impact analysis for issuance of a general construction permit for a source category does not take into account site-specific factors that could affect how a particular source requesting coverage under the general construction permit would affect air quality, and in particular, whether the proposed source could interfere with attainment or maintenance of the National Ambient Air Quality Standards (NAAQS).

Response: We disagree. General permits must be based on a review of impacts on ambient air quality from the types of sources with the characteristics of those that are eligible for coverage under the permit. The North Dakota general permit rule requires that ''[a]ny general permit shall comply with all requirements applicable to other permits to construct.'' North Dakota's construction permitting SIP requirements for source specific permits includes review of impacts on ambient air quality.[13] Thus, when developing a general permit, the State must evaluate whether the type of sources eligible for coverage under the general permit would interfere with attainment or maintenance of the NAAQS in the area to which the general permit applies. Furthermore, the public will have an opportunity to review and comment on this information as part of the general permit public notice process.[14]

Comment: The commenters state that nothing in North Dakota's general permit to construct regulations specifically state that North Dakota will deny coverage under a general construction permit if a source will cause or contribute to a NAAQS violation, and that the EPA overstated North Dakota's cited laws and regulations to deny approval of a proposed project under a general permit to construct. According to the commenters, NDAC 33–15–14–02.7, which provides when the state would deny a construction permit, does not apply to sources requesting coverage under the general permit to construct because 33–15–14–02.7 refers to public comment received and sources requesting coverage under a general permit to construct do not require public notice and comment. Thus, the commenters suggest that North Dakota's rules do not provide legally enforceable procedures ensuring the State will prohibit the construction of a source requesting coverage under a general permit to construct if it would interfere with attainment or maintenance of the NAAQS.

Response: We disagree. Before a general permit is issued, an analysis must be conducted, under 33–15–14–02.5, to determine whether the category of covered sources permitted under the permit have emissions so low that they are generally not expected to have adverse air quality impacts and will therefore comply with all applicable rules. NDAC 33–15–14–02.7 also requires that North Dakota deny coverage under a general permit if, after review of all information received (including public comment), a source would interfere with the attainment or maintenance of a NAAQS.[15]

Comment: The commenters expressed concern that the general permit to construct regulations do not define ''similar source'' to narrow what sources can be covered under the general construction permit, nor does the State rule provide that, to be similar, a source must have similar emissions and stack parameters.

Response: We disagree that there is a need to define ''similar source'' in this rule. The identified terms, including this one, have their common meaning in the context of the rule. In the case of general permits, the State will define the scope of the stationary sources covered by a particular general permit when establishing the criteria for sources eligible for and terms of the general permit. Moreover, all interested parties will have the opportunity to provide input on the appropriateness of the criteria defining the scope of the permit, including the emissions and stack

[11] 54 FR 27274 (June 28, 1989).

[12] *Guidance on Enforceability Requirements for Limiting Potential to Emit through SIP and § 112 Rules and General Permits.* (January 25, 1995), page 10, referencing June 28, 1989, **Federal Register**, 54 FR 27274, 27281–27284.

[13] For example, NDAC 33.1–15–14–02.4, *Submission of plans—Deficiencies in application,* provides that as part of a source application for a permit the department may require submission of the effects on ambient air quality. NDAC 33.1–15–14–02.5, *Review of application—Standard for granting permits to construct,* requires the department to determine whether the proposed project will be in accord with the article, among other requirements, including whether the operation of any new stationary source at the proposed location will cause or contribute to a violation of any applicable ambient air quality standard.

[14] Discussing state general permit programs, the EPA previously explained that ''since the rule establishing the program does not provide the specific standards to be met by the source, each general permit containing the criteria by which sources may qualify for the general permit, but not each application under each general permit, must be issued pursuant to public and the EPA notice and comment.'' EPA 1995 Enforceability Memo, page 10.

[15] 40 CFR 49.155(a)(7)(ii).

parameters of sources covered by the permit, during the public comment period for that permit.

Comment: The commenters also argue that North Dakota's May 3, 2018 letter to the EPA acknowledges that the general permits to construct regulations will not adequately address air quality concerns unique to specific areas that arise after issuance of the general permit to construct.

Response: We disagree. In fact, North Dakota's letter merely confirms the requirements in NDAC 33–15–02–07, to not cause or permit the emissions of contaminants in such a manner that causes or contributes to a violation of the ambient air quality standards, apply to individual sources covered under general permits. As previously stated, before a general permit is issued, an analysis must be conducted, under NDAC 33–15–14–02.5, to determine whether the category of covered sources under the general permit have emissions sufficiently low that they are generally not expected to have adverse air quality impacts and will therefore comply with all applicable rules. Thus, the State will consider any air quality concerns unique to specific areas that arise both before (33–15–14–02.5) and after (33–15–02–07) issuance of the general permit and not grant coverage to a source if there are air quality concerns.

Comment: With respect to the general permit to construct regulations, the commenters assert that the EPA cannot rely on North Dakota's May 3, 2018 letter as to how it may implement the general permit to construct rule to ensure the requirements of 40 CFR 51.160 are met because 40 CFR 51.160(a) states that the SIP ''must set forth legally enforceable procedures that enable the State or local agency to determine whether the construction or modification of a facility, building, structure or installation, or combination of these will result in a violation of the control strategy or interfere with attainment or maintenance of the NAAQS.'' Thus, the EPA cannot simply rely on statements made by North Dakota in a letter as satisfying the requirements for legally enforceable procedures.

Response: While we agree with the commenters that the EPA cannot rely on non-regulatory statements for legally enforceable procedures, we disagree that North Dakota's general permit to construct regulations, which become federally enforceable upon the EPA's approval into the SIP, do not contain legally enforceable procedures to determine if the construction or modification of a facility seeking coverage under a general permit will interfere with attainment or maintenance of the NAAQS. The May 3, 2018 letter is not itself legally enforceable, but it references provisions in North Dakota's regulations that are enforceable and provide the authority described. As noted previously, NDAC 33–15–14–02.1.c requires that general permits use the same procedures that apply to source-specific permits in North Dakota's minor source permitting program, which the EPA previously approved as meeting the requirements of 40 CFR 51.160–51.164. These authorities include the ability for North Dakota, under 33–15–14–02.5.a and 33–15–14–02.7, to deny coverage under a general permit both before and after issuance of a general permit, respectively, to any applicant and require that a source apply for a source specific permit if it would interfere with attainment or maintenance of the NAAQS. Furthermore, facilities that cannot meet any of the conditions in the general permit, including minimum stack heights, emission limitations, control requirements, or other requirements in NDAC 33–15–14 necessary to assure compliance with the NAAQS, will not be eligible for coverage under the general permit and must apply for an individual permit to obtain authorization to construct.

Comment: In addition to the preceding comments regarding North Dakota's general permit to construct regulations, the commenters argue that the EPA's proposed approval of the amendments to 33–15–20 (*Control of Emissions from Oil and Gas Well Facilities*) expands applicability of North Dakota rule 33–15–20, which in turn exempts additional oil and gas facilities from construction permitting pursuant to North Dakota rule 33–15–14–02.13.o. They further comment that this expansion allows the construction of oil and gas facilities without requiring companies to provide analyses ensuring NAAQS and PSD increments are complied with, and not providing an opportunity for public notice and comment. Thus, they suggest that North Dakota rule 33–15–20 as revised does not meet the preconstruction review requirements of 40 CFR 51.160–51.164.

Response: Although North Dakota broadened the applicability of Chapter 33–15–20 *Control of Emissions from Oil and Gas Well Production Facilities* to better reflect the entire contents of the chapter, practically speaking the revision did not, in fact, expand the number of oil and gas facilities subject to the chapter. Rather, the revision simply acknowledges that oil and gas facilities also emit air contaminants other than sulfur and sulfur compounds. Likewise, the revision acknowledges the expansive definition of a ''production facility,'' which includes equipment, wells, flow lines, separators, treaters, tanks, flares, gathering lines, and auxiliary non-transportation-related equipment used in the exploration, development, or subsequent production or handling of oil and gas from an oil and gas well or wells which are located on one or more contiguous or adjacent surface properties and are under the control of the same person (or persons under common control). Thus, the commonality of the previous terms, ''production facility'' and ''sulfur and sulfur compounds,'' historically ensured widespread applicability of Chapter 33–15–20 so that the revisions do not effectively increase the applicable sources.

Comment: Finally, the commenters expressed concern that there is no definition of ''oil and gas well facility'' in rule 33–15–20 or in any other North Dakota air pollution rule.

Response: We do not share the commenters' concern. North Dakota's regulations include definitions for the terms in the phrase ''oil and gas well facility.'' Specifically, NDAC 33–15–20 includes definitions for ''gas well,'' ''natural gas or gas,'' ''oil,'' ''oil well,'' and ''production facility,'' which are then used to derive the meaning of ''oil and gas facility.''

III. Final Action

For the reasons expressed in the proposed rule, the EPA is approving revisions to North Dakota Air Pollution Control Rules, shown in Table 1, submitted by the State of North Dakota on January 28, 2013, and November 11, 2016.

TABLE 1—LIST OF NORTH DAKOTA AMENDMENTS THAT THE EPA IS APPROVING †

Amended Section in the January 28, 2013 Submittal
33–15–14–02.1.c
Amended Sections in the November 11, 2016 Submittal
33–15–01–04.52, 33–15–14–02.1.c, 33–15–14–02.6.b(2), 33–15–14–03.5.a(1)(b), 33–15–14–03.5.a(1)(d), 33–15–14–03.9.a, 33–15–14–03.9.b, 33–15–15–01.2, 33–15–20–01.1, 33–15–20–01.2, 33–15–20–02.1, 33–15–20–02.2, 33–15–20–03.1, 33–15–20–03.2, 33–15–23–02.1, 33–15–23–02.2

† On August 6, 2018, North Dakota submitted a SIP revision to recodify portions of North Dakota's Air Pollution Rules. We approved the recodifications that have been previously approved into the SIP (84 FR 1610; February 5, 2019). As explained in the EPA's subsequent **Federal Register** notice, the effective date for the recodification is April 30, 2019 (84 FR 826; March 7, 2019). If this action becomes effective after April 30, 2019, the regulatory text for this action will reflect the recodification of the rules. The crosswalk between the rule numbers approved in this action and North Dakota's recodification is available in the docket for the EPA's February 5, 2019 final action.

IV. Incorporation by Reference

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of the North Dakota Air Pollution Control Rules described in the amendments set forth to 40 CFR part 52 below. Therefore, these materials have been approved by the EPA for inclusion in the SIP, have been incorporated by reference by the EPA into that plan, are fully federally enforceable under sections 110, 112, and 113 of the CAA as of the effective date of the final rulemaking of the EPA's approval, and will be incorporated by reference by the Director of the Federal Register in the next update to the SIP compilation.[16] The EPA has made, and will continue to make, these materials generally available through *www.regulations.gov* and at the EPA Region 8 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

V. Statutory and Executive Orders Review

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

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- 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, 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 the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP and authority approved under section 112(l) of the Act is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

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

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 28, 2019. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2)).

[16] 62 FR 27968 (May 22, 1997).

List of Subjects in 40 CFR Part 52

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

Dated: March 22, 2019.

Douglas Benevento,

Regional Administrator, Region 8.

40 CFR part 52 is amended to read as follows:

PART 52 APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart JJ—North Dakota

■ 2. Section 52.1820 paragraph (c) is amended as follows:

■ a. Under the heading ''33–15–01. General Provisions,'' revise the entry for 33–15–01–04.

■ b. Under the heading ''33–15–14. Designated Air Contaminant Sources Permit to Construct Minor Source Permit to Operate Title V Permit to Operate,'' revise the entries for 33–15–14–02 and 33–15–14–03.

■ c. Under the heading ''33–15–15. Prevention of Significant Deterioration of Air Quality,'' revise the entry for 33–15–15–01.2.

■ d. Under the heading ''33–15–20. Control of Emissions from Oil and Gas Well Production Facilities,'' revise the entries for 33–15–20–01, 33–15–20–02, and 33–15–20–03.

■ e. Under the heading ''33–15–23. Fees,'' revise the entry for 33–15–23–02.

The revisions read as follows:

§ 52.1820 Identification of plan.

* * * * *

(c) * * *

Rule No.	Rule title	State effective date	EPA effective date	Final rule citation/date	Comments
33–15–01. General Provisions					
*	*	*	*	*	*
33–15–01–04	Definitions	7/1/16	4/29/2019	[Insert **Federal Register** citation], 3/28/2019.	
*	*	*	*	*	*
33–15–14. Designated Air Contaminant Sources Permit to Construct Minor Source Permit to Operate Title V Permit to Operate					
*	*	*	*	*	*
33–15–14–02	Permit to construct	7/1/16	4/29/2019	[Insert **Federal Register** citation], 3/28/2019.	Excluding subsections 1, 12, 13, 3.c., 13.b.1., 5, 13.c., 13.i(5), 13.o., and 19 (one sentence) which were subsequently revised and approved. See 57 FR 28619 (6/26/92), regarding State's commitment to meet requirements of EPA's ''Guideline on Air Quality Models (revised).''
33–15–14–03	Minor source permit to operate.	7/1/16	4/29/2019	[Insert **Federal Register** citation], 3/28/2019.	
*	*	*	*	*	*
33–15–15. Prevention of Significant Deterioration of Air Quality					
*	*	*	*	*	*
33–15–15–01.2	Scope	7/1/16	4/29/2019	[Insert **Federal Register** citation], 3/28/2019.	Except for the revision associated with 40 CFR 52.21(l)(1).
*	*	*	*	*	*
33–15–20. Control of Emissions from Oil and Gas Well Production Facilities					
33–15–20–01	General provisions	7/1/16	4/29/2019	[Insert **Federal Register** citation], 3/28/2019.	
33–15–20–02	Registration and reporting requirements.	7/1/16	4/29/2019	[Insert **Federal Register** citation], 3/28/2019.	
33–15–20–03	Prevention of significant deterioration applicability and source information requirements.	7/1/16	4/29/2019	[Insert **Federal Register** citation], 3/28/2019.	

Rule No.	Rule title	State effective date	EPA effective date	Final rule citation/date	Comments
*	*	*	*	*	*
		33–15–23. Fees			
*	*	*	*	*	*
33–15–23–02	Permit to construct fees	7/1/16	4/29/2019	[Insert **Federal Register** citation], 3/28/2019.	
*	*	*	*	*	*

* * * * *

[FR Doc. 2019–05935 Filed 3–27–19; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2016–0213, EPA–R04–OAR–2014–0767, EPA–R04–OAR–2014–0426; FRL–9991–40–Region 4]

Air Plan Approval; KY; Minor Sources Infrastructure Requirement for the 2012 $PM_{2.5}$, 2010 NO_2, and 2010 SO_2 NAAQS

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving portions of three State Implementation Plan (SIP) submissions, submitted by the Commonwealth of Kentucky, Energy and Environment Cabinet, Department for Environmental Protection, through the Kentucky Division for Air Quality (KDAQ) on April 26, 2013 (two submissions), and February 8, 2016. The submissions address requirements for implementation of the 2012 Fine Particulate Matter ($PM_{2.5}$), 2010 Nitrogen Dioxide (NO_2), and 2010 Sulfur Dioxide (SO_2) national ambient air quality standards (NAAQS). When EPA promulgates a new or revised NAAQS, the Clean Air Act (CAA or Act) requires the state to make a new SIP submission establishing that the existing SIP meets the various applicable requirements or revising the SIP to meet those requirements. This type of SIP submission is commonly referred to as an ''infrastructure'' SIP. EPA is approving the portions of these infrastructure SIP submissions from Kentucky that relate to the minor source program requirements for the 2012 $PM_{2.5}$, 2010 NO_2, and 2010 SO_2 NAAQS.

DATES: This rule will be effective April 29, 2019.

ADDRESSES: EPA has established dockets for this action under Docket Identification Nos. EPA–R04–OAR–2016–0213, EPA–R04–OAR–2014–0767, and EPA–R04–OAR–2014–0426. All documents in the docket are listed on the *www.regulations.gov* website. Although listed in the index, some information is not publicly available, *i.e.,* Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *www.regulations.gov* or in hard copy at the Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW, Atlanta, Georgia 30303–8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday 8:30 a.m. to 4:30 p.m., excluding federal holidays.

FOR FURTHER INFORMATION CONTACT: Michele Notarianni, Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW, Atlanta, Georgia 30303–8960. Ms. Notarianni can be reached via electronic mail at *notarianni.michele@epa.gov* or the telephone number (404) 562–9031.

SUPPLEMENTARY INFORMATION:

I. Background

Under section 110 of the CAA, states are required to have SIPs that provide for the implementation, maintenance, and enforcement of the NAAQS. States are further required to make a SIP submission meeting the applicable requirements of sections 110(a)(1) and (2) within three years of EPA promulgating a new or revised NAAQS.[1] EPA has historically referred to these SIP submissions made for the purpose of satisfying the requirements of CAA sections 110(a)(1) and 110(a)(2) as ''infrastructure SIP'' submissions. Sections 110(a)(1) and (2) require states to address basic SIP elements such as for monitoring, basic program requirements, and legal authority that are designed to assure attainment and maintenance of the newly established or revised NAAQS. This action pertains to one of the requirements of section 110(a)(2): The minor source requirements of section 110(a)(2)(C). The minor source provisions are one of three components of section 110(a)(2)(C). With respect to the minor source requirements, SIPs must include a program to provide for the enforcement of measures for the state-wide regulation of new and modified minor sources and minor modifications of major sources under the New Source Review (NSR) program.

This action pertains to the section 110(a)(2)(C) minor source requirements for Kentucky's infrastructure SIP submissions for the 2012 $PM_{2.5}$, 2010 NO_2, and 2010 SO_2 NAAQS. All other applicable infrastructure requirements for the 2012 $PM_{2.5}$, 2010 NO_2, and 2010 SO_2 NAAQS for Kentucky are being or have been addressed in separate rulemakings. On April 26, 2013, and February 8, 2016, KDAQ submitted infrastructure SIP submissions to EPA that addressed the minor source element of section 110(a)(2)(C) for the pollutants relevant to the 2012 $PM_{2.5}$, 2010 NO_2, and 2010 SO_2 NAAQS, in addition to other infrastructure SIP requirements.

[1] *See* EPA's May 10, 2017, action proposing to approve other portions of Kentucky's infrastructure SIP submittal for the 2012 $PM_{2.5}$ NAAQS for a discussion of EPA's general approach to reviewing infrastructure SIP submittals. 82 FR 21751.

KDAQ also provided clarifying information to EPA on December 18, 2017, and May 2, 2018, describing Kentucky's SIP-approved regulations which comprise the basic structural elements of the minor source program in the Commonwealth.[2]

In a notice of proposed rulemaking (NPRM) published on November 5, 2018 (83 FR 55338), EPA proposed to approve the portions of the infrastructure SIP submissions from Kentucky dated February 8, 2016, and April 26, 2013, addressing the minor source requirements of section 110(a)(2)(C) of the CAA for the 2012 $PM_{2.5}$, 2010 NO_2, and 2010 SO_2 NAAQS. The details of Kentucky's submissions and the rationale for EPA's actions are explained in the NPRM. Comments on the NPRM were due on or before December 5, 2018. EPA received no adverse comments on the proposed action.

II. Final Action

As described above, EPA is approving the portions of the infrastructure SIP submissions from Kentucky dated February 8, 2016, and April 26, 2013, addressing the minor source requirements of section 110(a)(2)(C) of the CAA for the 2012 $PM_{2.5}$, 2010 NO_2, and 2010 SO_2 NAAQS. EPA is approving the minor source portions of these submissions because they are consistent with section 110 of the CAA.

III. Statutory and Executive Order Reviews

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

- Are not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Are not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- Do not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Are certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Do not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Do not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Are not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Are not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Are not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Do not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

The SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

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

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 28, 2019. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. *See* section 307(b)(2).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Reporting and recordkeeping requirements, Particulate matter, Sulfur dioxide.

Dated: March 18, 2019.

Mary S. Walker,

Acting Regional Administrator, Region 4.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart S—Kentucky

■ 2. Section 52.920(e), is amended by adding new entries for: ''110(a)(1) and (2) Infrastructure Requirements for the 2010 NO_2 NAAQS''; ''110(a)(1) and (2) Infrastructure Requirements for the 2010 SO_2 NAAQS''; and ''110(a)(1) and (2) Infrastructure Requirements for the 2012 $PM_{2.5}$

NAAQS'' at the end of the table to read as follows:

§ 52.920 Identification of plan.

* * * * *

(e) * * *

[2] Kentucky correspondence to EPA dated December 18, 2017, and May 2, 2018, are in each of the dockets for this action under ''Proposed Rule-2.''

EPA-APPROVED KENTUCKY NON-REGULATORY PROVISIONS

Name of non-regulatory SIP provision	Applicable geographic or nonattainment area	State submittal date/effective date	EPA approval date	Explanations
*	*	*	*	*
110(a)(1) and (2) Infrastructure Requirements for the 2010 NO_2 NAAQS.	Kentucky	4/26/2013	3/28/2019, [Insert citation of publication].	Only addresses the minor source program requirements of section 110(a)(2)(C).
110(a)(1) and (2) Infrastructure Requirements for the 2010 SO_2 NAAQS.	Kentucky	04/26/2013	3/28/2019, [Insert citation of publication].	Only addresses the minor source program requirements of section 110(a)(2)(C).
110(a)(1) and (2) Infrastructure Requirements for the 2012 $PM_{2.5}$ NAAQS.	Kentucky	2/8/2016	3/28/2019, [Insert citation of publication].	Only addresses the minor source program requirements of section 110(a)(2)(C).

[FR Doc. 2019–05881 Filed 3–27–19; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 665

[Docket No. 120416010–2476–01]

RIN 0648–XG905

Pacific Island Fisheries; Closure of the 2019 Hawaii Shallow-Set Pelagic Longline Fishery

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

ACTION: Temporary rule; fishery closure.

SUMMARY: This final rule closes the Hawaii shallow-set pelagic longline fishery north of the Equator for all vessels registered under the Hawaii longline limited access program. The shallow-set fishery has reached the annual limit of 17 physical interactions with North Pacific loggerhead sea turtles, so NMFS must close the fishery for the remainder of the calendar year, or until further notice. This action is necessary to comply with regulations that establish maximum annual limits on the numbers of interactions that occur between longline fishing gear and sea turtles.

DATES: Effective March 27, 2019, through December 31, 2019. Compliance date: 9:50 a.m. Hawaii-Aleutian Standard Time (HST) on March 19, 2019, through December 31, 2019.

FOR FURTHER INFORMATION CONTACT: Bob Harman, NMFS Pacific Islands Regional Office, 808–725–5170.

SUPPLEMENTARY INFORMATION: NMFS manages the shallow-set pelagic longline fishery for swordfish in the Pacific Islands according to the Fishery Ecosystem Plan for Pelagic Fisheries of the Western Pacific Region (FEP), developed by the Western Pacific Fishery Management Council, and implemented by NMFS under authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). Regulations governing fishing by U.S. vessels in accordance with the FEP appear at 50 CFR part 665 and at subpart H of 50 CFR part 600.

The regulations at § 665.813(b)(1) establish maximum annual limits on the numbers of physical interactions that occur between longline fishing gear and sea turtles. These limits apply to physical interactions with vessels registered with Hawaii longline limited access permits while engaged in shallow-set longline fishing, *i.e.,* fishing that is directed at swordfish. There are two calendar-year annual limits on physical interactions: 26 leatherback sea turtles (*Dermochelys coriacea*), and 17 loggerhead sea turtles (*Caretta caretta*). Scientific observers, placed by NMFS aboard every vessel engaged in shallow-set longline fishing, monitor interactions with turtles.

The regulations at § 665.813(b)(2) require NMFS to close the shallow-set fishery as soon as the interaction limit for either of the two turtle species has been determined to have been reached in a given year, after giving permit holders and operators actual notice of the closure. Upon receiving actual notice from NMFS, fishermen are required to immediately remove all longline fishing gear from the water. Once the fishery is closed, all vessels registered under Hawaii longline limited-access permits are prohibited from shallow-set longline fishing north of the Equator.

In accordance with § 665.813(b)(2), the Regional Administrator, NMFS Pacific Islands Region, has determined that the fishery has reached the annual interaction limit of 17 North Pacific loggerhead turtles. Consequently, NMFS closed the shallow-set component of the Hawaii-based longline fishery at 9:50 a.m. HST on March 19, 2019. The closure ends at midnight HST on December 31, 2019.

NMFS is currently preparing a biological opinion that addresses the continued operation of the shallow-set longline fishery, which may result in changes to the current annual interaction limits. NMFS would publish any changes in a future rulemaking.

Classification

The Assistant Administrator for Fisheries, NOAA, has determined that this final rule is consistent with the Magnuson-Stevens Act, the Endangered Species Act, and other applicable laws.

This final rule is required by § 665.813(b)(2) and is exempt from review under Executive Order 12866.

NMFS has good cause under the Administrative Procedure Act (5 U.S.C. 553(b)(B) and 5 U.S.C. 553(d)(3)) to waive prior notice and an opportunity for public comment, and the 30 days delayed effectiveness, for this temporary rule, as prior notice and comment would be contrary to the public interest. NMFS must implement the closure of the fishery immediately to prevent further impacts to North Pacific loggerhead sea turtles. In addition, providing prior notice and comment and 30 days delayed effectiveness are unnecessary because NMFS has no discretion to take other action because

such action would be inconsistent with Federal regulations.

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

Dated: March 22, 2019.

Jennifer M. Wallace,

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

[FR Doc. 2019–05939 Filed 3–27–19; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 180831813–9170–02]

RIN 0648–XG916

Fisheries of the Exclusive Economic Zone Off Alaska; Pollock in Statistical Area 610 in the Gulf of Alaska

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

ACTION: Temporary rule; modification of closure.

SUMMARY: NMFS is opening directed fishing for pollock in Statistical Area 610 of the Gulf of Alaska (GOA). This action is necessary to fully use the B season allowance of the 2019 total allowable catch of pollock in Statistical Area 610 of the GOA.

DATES: Effective 1200 hours, Alaska local time (A.l.t.), March 26, 2019, through 1200 hours, A.l.t., May 31, 2019. Comments must be received at the following address no later than 4:30 p.m., A.l.t., April 9, 2019.

ADDRESSES: You may submit comments on this document, identified by FDMS Docket Number NOAA–NMFS–2018–0103 by any of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2018-0103,* click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.
- *Mail:* Address written comments to Glenn Merrill, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region NMFS, Attn: Ellen Sebastian. Mail comments to P.O. Box 21668, Juneau, AK 99802–1668.

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

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

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

The B season allowance of the 2019 total allowable catch (TAC) of pollock in Statistical Area 610 of the GOA is 848 metric tons (mt) as established by the final 2019 and 2020 harvest specifications for groundfish of the GOA (84 FR 9416, March 14, 2019).

NMFS closed directed fishing for pollock in Statistical Area 610 of the GOA under § 679.20(d)(1)(iii) on March 10, 2019 (84 FR 8626, March 11, 2019).

As of March 21, 2019, NMFS has determined that approximately 848 metric tons of pollock remain in the B season allowance for pollock in Statistical Area 610 of the GOA. Therefore, in accordance with § 679.25(a)(1)(i), (a)(2)(i)(C), and (a)(2)(iii)(D), and to fully utilize the B season allowance of the 2019 TAC of pollock in Statistical Area 610 of the GOA, NMFS is terminating the previous closure and is reopening directed fishing for pollock in Statistical Area 610 of the GOA, effective 1200 hours, A.l.t., March 26, 2019.

The Administrator, Alaska Region (Regional Administrator) considered the following factors in reaching this decision: (1) The catch of pollock in Statistical Area 610 of the GOA and, (2) the harvest capacity and stated intent on future harvesting patterns of vessels in participating in this fishery.

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 directed fishing for pollock in Statistical Area 610 of the GOA. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of March 21, 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.

Without this inseason adjustment, NMFS could not allow the fishery for pollock in Statistical Area 610 of the GOA to be harvested in an expedient manner and in accordance with the regulatory schedule. Under § 679.25(c)(2), interested persons are invited to submit written comments on this action to the above address until April 9, 2019.

This action is required by § 679.25 and is exempt from review under Executive Order 12866.

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

Dated: March 25, 2019.

Jennifer M. Wallace,

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

[FR Doc. 2019–05943 Filed 3–25–19; 4:15 pm]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register

Vol. 84, No. 60

Thursday, March 28, 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 TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2019–0185; Product Identifier 2018–NM–178–AD]

RIN 2120–AA64

Airworthiness Directives; Bombardier, Inc., Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for all Bombardier, Inc., Model CL–600–2C10 (Regional Jet Series 700, 701 & 702), CL–600–2D15 (Regional Jet Series 705), and CL–600–2D24 (Regional Jet Series 900) airplanes. This proposed AD was prompted by a determination that new or more restrictive airworthiness limitations are necessary for operational checks of the landing gear alternate extension system (AES). This proposed AD would require revising the existing maintenance or inspection program, as applicable, to incorporate new and more restrictive airworthiness limitations. We are proposing this AD to address the unsafe condition on these products.

DATES: We must receive comments on this proposed AD by May 13, 2019.

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.
- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this NPRM, contact Bombardier, Inc., 400 Côte-Vertu Road West, Dorval, Québec H4S 1Y9, Canada; Widebody Customer Response Center North America toll-free telephone 1–866–538–1247 or direct-dial telephone 1–514–855–2999; fax 514–855–7401; email *ac.yul@aero.bombardier.com;* internet *http://www.bombardier.com.* You may view this service information at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

Examining the AD Docket

You may examine the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2019–0185; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, the regulatory evaluation, any comments received, and other information. The street address for Docket Operations (phone: 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Darren Gassetto, Aerospace Engineer, Mechanical Systems and Administrative Services Section, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7323; fax 516–794–5531; email *9-avs-nyaco-cos@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2019–0185; Product Identifier 2018–NM–178–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this NPRM. We will consider all comments received by the closing date and may amend this NPRM because of those comments.

We will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this NPRM.

Discussion

Transport Canada Civil Aviation (TCCA), which is the aviation authority for Canada, has issued Canadian AD CF–2018–31, dated November 28, 2018 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for all Bombardier, Inc., Model CL–600–2C10 (Regional Jet Series 700, 701 & 702), CL–600–2D15 (Regional Jet Series 705), and CL–600–2D24 (Regional Jet Series 900) airplanes. The MCAI states:

> During the Bombardier Maintenance Review Board (MRB) inspection escalation interval project, it was discovered that the current interval of 8000 hours air time and previous interval of 6000 hours air time for the MRB Task 320100–203 ''Operational Check of the Landing Gear Alternate Extension System (AES)'' does not meet the certification criteria to cover for all critical AES failure modes [which could reduce the ability of the flightcrew to maintain the safe flight and landing of the airplane]. For this reason, a new Certification Maintenance Requirement (CMR) task needs to be implemented in the maintenance program at a shorter interval of 1600 hours air time.
>
> This [Canadian] AD mandates a new CMR task for an operational check of the AES with interval of 1600 hours air time.

You may examine the MCAI in the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2019–0185.

Related Service Information Under 1 CFR Part 51

Bombardier has issued Temporary Revision (TR) ALI–0652, dated July 9, 2018. This service information describes airworthiness limitations for a CMR task related to operational checks of the landing gear AES. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

FAA's Determination

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with the State of Design Authority, we have been notified of the unsafe condition described in the

MCAI and service information referenced above. We are proposing this AD because we evaluated all the relevant information and determined the unsafe condition described previously is likely to exist or develop on other products of the same type design.

Proposed Requirements of This NPRM

This proposed AD would require revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive airworthiness limitations.

This proposed AD would require revisions to certain operator maintenance documents to include new actions (*e.g.,* inspections). Compliance with these actions is required by 14 CFR 91.403(c). For airplanes that have been previously modified, altered, or repaired in the areas addressed by this proposed AD, the operator may not be able to accomplish the actions described in the revisions. In this situation, to comply with 14 CFR 91.403(c), the operator must request approval for an alternative method of compliance according to paragraph (i)(1) of this proposed AD.

Costs of Compliance

We estimate that this proposed AD affects 536 airplanes of U.S. registry. We estimate the following costs to comply with this proposed AD:

We have determined that revising the existing maintenance or inspection program takes an average of 90 work-hours per operator, although we recognize that this number may vary from operator to operator. In the past, we have estimated that this action takes 1 work-hour per airplane. Since operators incorporate maintenance or inspection program changes for their affected fleet(s), we have determined that a per-operator estimate is more accurate than a per-airplane estimate. Therefore, we estimate the total cost per operator to be $7,650 (90 work-hours × $85 per work-hour).

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. Subtitle VII: Aviation Programs, describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701: ''General requirements.'' Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

This proposed AD is issued in accordance with authority delegated by the Executive Director, Aircraft Certification Service, as authorized by FAA Order 8000.51C. In accordance with that order, issuance of ADs is normally a function of the Compliance and Airworthiness Division, but during this transition period, the Executive Director has delegated the authority to issue ADs applicable to transport category airplanes and associated appliances to the Director of the System Oversight Division.

Regulatory Findings

We determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify this proposed regulation:

1. Is not a ''significant regulatory action'' under Executive Order 12866;
2. Is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979);
3. Will not affect intrastate aviation in Alaska; and
4. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA proposes to amend 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

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

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new airworthiness directive (AD):

Bombardier, Inc.: Docket No. FAA–2019–0185; Product Identifier 2018–NM–178–AD.

(a) Comments Due Date

We must receive comments by May 13, 2019.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all Bombardier, Inc., Model CL–600–2C10 (Regional Jet Series 700, 701 & 702), CL–600–2D15 (Regional Jet Series 705), and CL–600–2D24 (Regional Jet Series 900) airplanes, certificated in any category.

(d) Subject

Air Transport Association (ATA) of America Code 32, Landing gear.

(e) Reason

This AD was prompted by a determination that new or more restrictive airworthiness limitations are necessary for operational checks of the landing gear alternate extension system (AES). We are issuing this AD to address a deficiency in the existing maintenance or inspection program, as applicable, that does not meet the certification criteria for all critical AES failure modes, which could reduce the ability of the flightcrew to maintain the safe flight and landing of the airplane.

(f) Compliance

Comply with this AD within the compliance times specified, unless already done.

(g) Maintenance or Inspection Program Revision

Within 30 days after the effective date of this AD, revise the existing maintenance or inspection program, as applicable, to incorporate the information specified in Bombardier Temporary Revision (TR) ALI–0652, dated July 9, 2018. The initial compliance time for doing the tasks is at the time specified in figure 1 to paragraph (g) of this AD.

FIGURE 1 TO PARAGRAPH (g) OF THIS AD—COMPLIANCE TIMES

Airplane flight hours	Compliance time
For airplanes with 4,400 flight hours or less since the last inspection done in accordance with Maintenance Review Board (MRB) Task 320100–203.	Within 1,760 flight hours from the effective date of this AD.
For airplanes with more than 4,400 flight hours since the last inspection done in accordance with MRB Task 320100–203.	Within 880 flight hours from the effective date of this AD.

(h) No Alternative Actions or Intervals

After the existing maintenance or inspection program has been revised as required by paragraph (g) of this AD, no alternative actions (*e.g.,* inspections) or intervals may be used unless the actions or intervals are approved as an alternative method of compliance (AMOC) in accordance with the procedures specified in paragraph (i)(1) of this AD.

(i) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, New York ACO Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the certification office, send it to ATTN: Program Manager, Continuing Operational Safety, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7300; fax 516–794–5531. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the Manager, New York ACO Branch, FAA; or Transport Canada Civil Aviation (TCCA); or Bombardier, Inc.'s TCCA Design Approval Organization (DAO). If approved by the DAO, the approval must include the DAO-authorized signature.

(j) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) Canadian AD CF–2018–31, dated November 28, 2018, for related information. This MCAI may be found in the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2019–0185.

(2) For more information about this AD, contact Darren Gassetto, Aerospace Engineer, Mechanical Systems and Administrative Services Section, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7323; fax 516–794–5531; email *9-avs-nyaco-cos@faa.gov.*

(3) For service information identified in this AD, contact Bombardier, Inc., 400 Côte-Vertu Road West, Dorval, Québec H4S 1Y9, Canada; Widebody Customer Response Center North America toll-free telephone 1–866–538–1247 or direct-dial telephone 1–514–855–2999; fax 514–855–7401; email *ac.yul@aero.bombardier.com;* internet *http://www.bombardier.com.* You may view this service information at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

Issued in Des Moines, Washington, on March 20, 2019.

Michael Kaszycki,

Acting Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2019–05896 Filed 3–27–19; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

14 CFR Part 250

[Docket No. DOT–OST–2019–0025]

RIN No. 2105–AE67

Modernizing Payment of Denied Boarding Compensation

AGENCY: Office of the Secretary (OST), Department of Transportation (DOT).

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The Department of Transportation is proposing to amend its rule on oversales to allow airlines to use electronic payment medias that are equivalent to cash as an option in lieu of check or cash payment to compensate passengers who are denied boarding involuntarily due to oversales; and allow airlines to provide a mandatory written denied boarding notice in an oversales situation by electronic means upon passengers' consent, in lieu of a paper copy. This action would not impact airlines' ability to offer a consumer who is denied boarding involuntarily a choice between flight vouchers or credits and the required denied boarding compensation.

DATES: Comments should be filed by May 28, 2019. Late-filed comments will be considered to the extent practicable.

ADDRESSES: You may file comments identified by the docket number DOT–OST–2019–0025 by any of the following methods:

○ *Federal eRulemaking Portal:* Go to *http://www.regulations.gov* and follow the online instructions for submitting comments.

○ *Mail:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Ave. SE, Room W12–140, Washington, DC 20590–0001.

○ *Hand Delivery or Courier:* West Building Ground Floor, Room W12–140, 1200 New Jersey Ave. SE, between 9:00 a.m. and 5:00 p.m. ET, Monday through Friday, except Federal Holidays.

○ *Fax:* (202) 493–2251.

Instructions: You must include the agency name and docket number DOT–OST–2019–0025 or the Regulatory Identification Number (RIN) for the rulemaking at the beginning of your comment. All comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided.

Privacy Act: Anyone is able to search the electronic form of all comments received in any of our dockets by the name of the individual submitting the comment (or signing the comment if submitted on behalf of an association, a business, a labor union, etc.). You may review DOT's complete Privacy Act statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78), or you may visit *http://DocketsInfo.dot.gov.*

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov* or to the street address listed above. Follow the online instructions for accessing the docket.

FOR FURTHER INFORMATION CONTACT: Clereece Kroha or Blane A. Workie, Office of Aviation Enforcement and Proceedings, U.S. Department of Transportation, 1200 New Jersey Ave. SE, Washington, DC 20590, 202–366–9342 (phone), 202–366–7152 (fax), *clereece.kroha@dot.gov* or *blane.workie@dot.gov* (email).

SUPPLEMENTARY INFORMATION:

Executive Summary

1. Purpose of the Deregulatory Action

The purpose of this action is to explore additional means for U.S. and foreign air carriers to compensate passengers who are involuntarily denied boarding in an oversales situation. Currently, carriers must provide Denied Boarding Compensation (DBC) by issuing cash or checks. This NPRM proposes to allow carriers to use electronic payment methods in lieu of cash or check DBC payments. This NPRM also proposes to allow U.S. and foreign air carriers to provide a mandatory written notice to consumers explaining DBC and boarding priorities in electronic form. Currently, carriers are required to provide this notice in print format.

Summary of the Major Provisions of the Deregulatory Action in Question

This NPRM proposes to amend the following provisions in 14 CFR part 250:

(1) 14 CFR 250.5 Amount of denied boarding compensation for passengers denied boarding involuntarily.

This provision would be amended to incorporate the proposal of allowing cash equivalent electronic payments for compensating passengers who are denied boarding involuntarily.

(2) 14 CFR 250.8 Denied boarding compensation.

This provision would be amended to incorporate the proposal of allowing cash equivalent electronic payments for DBC payments, and specify certain conditions for these electronic payments to ensure that they are indeed equivalent to cash.

(3) 14 CFR 250.9 Written explanation of denied boarding compensation and boarding priorities, and verbal notification of denied boarding compensation.

This provision sets forth the written statement that carriers must provide to passengers regarding involuntarily denied boarding. This provision would be amended to incorporate the proposal to allow carriers to provide the written statement by electronic means upon passengers' consent. The written statement would also be amended to incorporate the proposal of allowing cash equivalent electronic DBC payments.

2. Summary of Costs and Benefits

The proposed rule would provide regulatory relief to airlines, while maintaining aviation consumer protections for passengers. The rule would not have a significant economic impact on airlines or their passengers, and those economic impacts that are anticipated are expected to be beneficial to both airlines and passengers, and modest in magnitude.

Background

To compensate for ''no-shows,'' many airlines overbook their scheduled flights by selling more confirmed reservations for a flight than they have seats. At times, it may also be necessary to involuntarily deny boarding to passengers holding confirmed reservations to comply with safety or operational requirements, or to make room for Federal Air Marshall, or other law enforcement personnel. The Department's regulation on oversales, 14 CFR part 250, establishes the minimum standards for the treatment of airline passengers holding confirmed reservations who are involuntarily denied boarding (''bumped''). Among other requirements, 14 CFR 250.8 requires that U.S. and foreign air carriers must offer compensation in the form of cash or immediately negotiable check to bumped passengers. The amount of the cash or negotiable check depends on the price of the airline ticket, whether the passenger was bumped from a domestic flight or international flight, and the projected length of the delay caused by the bumping. Under DOT rules, if a passenger is bumped involuntarily, the cash or check must be tendered on the day and place the denied boarding occurs, or, under certain circumstances, by mail or other means within 24 hours.

The Department's oversales rule was initially promulgated by its predecessor, the Civil Aeronautics Board (CAB) in 1967 (32 FR 11939, Aug. 18, 1967). In that final rule, carriers were required to tender to a passenger eligible for DBC, on the day and place the denied boarding occurs, a ''draft'' for the appropriate amount. The rule further provides that when a carrier arranges alternate means of transportation that departs before the draft can be prepared and tendered to the passenger, tender shall be made by mail or other means within 24 hours after the time the denied boarding occurs. In 1984, the CAB issued an interpretive amendment to the rule to make it clear that passengers involuntarily denied boarding must be paid by cash or an immediately negotiable check (49 FR 43622, Oct. 31, 1984). The amended rule retains the original rule's requirement regarding the timing of DBC payment, that DBC must be paid at the time and place of denied boarding, or tendered within 24 hours after the denied boarding occurs. However, it replaced the word ''draft'' as appeared in the rule with the phrase ''cash or immediately negotiable check.'' In doing so, the CAB rebutted a carrier's argument that the undefined term ''draft'' can be interpreted to include carrier-issued flight vouchers. The CAB reiterated that one of the main goals of the oversales rule was to provide ''prompt, effective, and adequate'' compensation to bumped passengers and pointed out that the intended results of the rule, one of which being that DBC must be paid by ''cash or cash equivalent'', are clear and that the intent had been uniformly interpreted by the industry since 1967. The phrase ''cash or immediately negotiable check'' remains to be the rule as of today.

The Department recognizes that the means of money transfer offered by the banking systems and other financial institutions have evolved over the last few decades. In 1984, when the CAB required that DBC must be paid by cash or check, an immediately negotiable check was likely the only form of cash equivalent that was widely available and accessible to the public. Since then, prepaid access payments [1] have been introduced to and accepted by many merchants. In addition, in recent years, electronic fund transfer [2] services, previously only available for transfers between financial institutions, is now available for transferring money from the account holder of a bank to an individual consumer. Further, various digital money transfer networks offered by non-banking business entities, such as *PayPal, Zelle, Square Cash, Google Wallet,* and *Venmo,* are becoming more and more popular among consumers due to their accessibility via mobile phone applications.

As a result of the aforementioned money storage and transfer technology evolution, various airlines have urged the Department to consider allowing them to provide DBC payments to passengers via a prepaid card or other forms of electronic funds. In 2011, in the Department's final rule titled ''Enhancing Airline Passenger

[1] ''Prepaid access'' is defined as access to funds or the value of funds that have been paid in advance and can be retrieved or transferred at some point in the future through an electronic device or vehicle, such as a card, code, electronic serial number, mobile identification number, or personal identification number. *See* 31 CFR 1010.100(ww).

[2] ''Electronic fund transfer'' means any transfer of funds that is initiated through an electronic terminal, telephone, computer or magnetic tape for purpose of ordering, instructing, or authorizing a financial institution to debit or credit a consumer's account. The term includes, but is not limited to: (i) Point-of-sale transfers; (ii) Automated teller machine transfers; (iii) Direct deposits or withdrawals of funds; (iv) Transfers initiated by telephone; and (v) Transfers resulting from debit card transactions, whether or not initiated through an electronic terminal. *See* 12 CFR 1005.3.

Protections'' (76 FR 23109, Apr. 25, 2011), we responded to some carriers' comments that the Department should allow the use of prepaid cards [3] for DBC payments. In our response, we acknowledged the convenience and security features offered by electronic funds, but declined to implement a rule allowing use of electronic funds as a substitute for cash or check payments because we had not had the opportunity to fully examine the potential benefits and limitations of the use of electronic funds in that rulemaking proceeding. We stated that we may explore this issue in future rulemaking. Further, in October 2017, the Department published a Notification of Regulatory Review (82 FR 45750, October 2, 2017), seeking public input on existing rules and other agency actions that are good candidates for repeal, replacement, suspension, or modification. Among the comments received, Airlines for America (A4A), the trade association for most large U.S. air carriers, suggests that the Department should eliminate the requirement that DBC be paid in cash or check, and allow airlines to make DBC payments by electronic transfer, credit or flight vouchers. A4A avers that the requirement of cash or check DBC payment is obsolete in today's society where electronic payments have become the norm. By this NPRM, we fulfill our stated intention in the 2011 final rule and take the opportunity to examine this subject fully, including issues raised by A4A in its regulatory review comment.

The CAB's 1967 final rule establishing the oversales regulation also included a provision that requires greater public disclosure of boarding procedures and passengers' rights in the event of an oversold flight. In a 1978 final rule that strengthened this disclosure requirement, CAB stated that its adoption of a more stringent public disclosure requirement was intended to afford passengers, who were otherwise generally ignorant of the rule, the opportunity to take steps to protect themselves from involuntary bumping or to verify that carriers have in fact acted in accordance with the stated priorities. See 43 FR 24277, at 24281. Under the current rule, carriers must provide a written notice explaining the computation of DBC and the carrier's boarding priority in determining which passenger(s) would be subject to involuntarily denied boarding in an oversales situation, if necessary. This notice must be provided verbatim to any passenger who was involuntarily denied boarding, immediately following the denied boarding, and to any other persons, upon request, at (1) all airport ticket selling positions that are exclusively or jointly under the carrier's control, and (2) at boarding locations (*e.g.,* gates).

For several decades, carriers complied with this requirement by preprinting a large quantity of pamphlets containing the written notice as prescribed by the rule, and distributing the pamphlets to each station so they would be available on demand at the ticket counters and gates. In recent years, some carriers began to use computer terminals at the ticket counters and gates to generate printed notices on demand. By doing so, carriers may avoid the cost of preprinting a large amount of pamphlets that may be rendered obsolete on a later date because the regulatorily mandated DBC maximum amounts contained in the notice are subject to inflation adjustments. It also avoids the possibility of running out of or misplacing the pamphlets at a station so all agents are able to locate and produce the document on a short notice.

In comments submitted to the aforementioned 2017 regulatory reform docket, A4A states that the rule was originally implemented long before the internet and email existed, when airlines had to rely on paper-based forms of communication with consumers. A4A asserts that airlines' compliance with this paper-based notice requirement creates unnecessary logistical challenges and ignores the greater efficiency and more environmentally beneficial ability to deliver such notification to consumers electronically. According to A4A, airlines are required to expend considerable resources to print and distribute these written statements to consumers, including destroying existing notices and reprinting such statements each time the Department adjusts the amount of denied boarding compensation it requires. A4A recommends that the Department amend the regulation to allow carriers to provide passengers the involuntary denied boarding information explanation in an electronic format in order to modernize the delivery of such information to consumers, to better ensure up-to-date information is provided, reduce the cost of document destruction as carriers destroy outdated documents, and eliminate paper waste.

Improvement of regulations is a continuous focus for the Department. As a part of that effort, we periodically review existing regulations to ensure that they continue to meet the needs for which they originally were designed, remain cost-effective and cost-justified. As such, and in response to A4A's comment, we undertake this rulemaking to explore the subject of eliminating the requirement for paper-based notice and allowing carriers to provide the notice electronically.

Notice of Proposed Rulemaking

1. Methods of DBC Payment

As stated by CAB in 1984, one goal of the oversales rule is to ensure that carriers provide ''prompt, effective, and adequate'' compensation to bumped passengers. In light of the technological advancements that have taken place in money transfer, we ask the public to comment on whether expanding the scope of ''cash equivalent'' beyond an immediately negotiable check would still result in ''prompt, effective, and adequate'' compensations to bumped passengers. Is there a significant number of passengers who do not have access to electronic funds and can only access DBC payments by cash or check? If so, how can the Department ensure that all passengers affected by involuntary denied boarding, including those passengers who do not have access to electronic funds, receive ''prompt and effective'' DBC payments? In the event the Department finalizes a rule to allow carriers to provide DBC payments in electronic formats in lieu of cash or check payments, should the rule take effect right away or is there a need for a sunset period for the cash and check payments mandate to be eliminated? How long should the sunset period be?

Since the issuance of the 2011 final rule in which the Department declined to address the issue of allowing alternative DBC payment methods, the Department has engaged in discussions with the airline industry on this matter. These discussions with stakeholders have provided valuable information for the Department to preliminarily assess the benefits and limitations of electronic funds. With respect to benefits, we recognize that for security and administrative reasons, most, if not all, carriers may prefer to tender DBC in the form of checks instead of cash. We acknowledge that there are situations in which there is no time for the passenger to wait for a check or the carrier is unable to issue the check immediately following the denied boarding. In these situations, carriers are required to mail a check within 24 hours, but as a

[3] The comments submitted by these carriers use the term ''debit cards.'' A debit card is linked to a specific bank account, and in contrast, a prepaid card stores a specific amount of money prepaid and stored in a media and is not linked to a bank account. For the purpose of providing DBC, we believe a prepaid card is the intended form of payment referred to by these commenters.

practical matter, consumers oftentimes would not have access to the money for many days because of the time needed for the checks to arrive at their designated addresses by mail, the likelihood that the bumped passengers may be traveling and not at their residences to receive the checks, and the time necessary for depositing the checks into their bank accounts. In contrast to checks, electronic funds oftentimes are much easier ways for consumers to access the money. For example, prepaid cards provide consumers a convenient way to immediately withdraw cash from an automated teller machine (ATM) or allow them to use the cards for purchases at retail stores and in online transactions. Similarly, electronic fund transfers via a banking system or through an intermediary platform, such as *PayPal,* provides consumers access to the money in a much faster and convenient manner. These funds are also available for online transactions. From the carriers' perspective, issuing DBC in electronic formats can facilitate a computerized and centralized DBC management system, eliminate the need to manually issue and mail checks, increase efficiency, and decrease the chance of fund mismanagement. For purpose of this rulemaking, we invite the public as well as experts in the banking industry to comment on any other benefits of using these electronic forms of payment to issue DBC. Are there any specific distinctions among prepaid cards, and various electronic fund transfer platforms (including directly transferring funds to the passengers' bank accounts and to accounts with intermediary transfer services such as *PayPal*) that are pertinent in making a form or forms of DBC payment more preferable than others? What type or types of payment are most likely accessible to the majority of consumers? Should the carriers be required to provide payments in cash or check if the offer of electronic payments are rejected by a passenger for the reason that it is inaccessible to that individual? What are the estimated administrative costs to carriers for managing these electronic payment systems, including administration fees and services fees paid to financial institutions or intermediary fund transfer entities, if any? How are these costs compared to the cost of managing cash or check DBC payments at both headquarters and station levels?

With respect to limitations of electronic DBC payments, we found that, compared to cash or check payments, many prepaid cards have shorter validity periods than a typical check instrument; some cards impose various fees on users; and when withdrawing cash with the cards at ATMs, there are often withdrawal limits, usage fees, and other conditions attached. For commonly known electronic fund transfer methods, we are not aware of any fees imposed on the recipients of the funds. With respect to fees imposed on the providers of the funds (the airlines), we lack information on whether they exist and, if so, in what format. We welcome public comments on this issue. As our goal is to find means of payment that are equivalent to cash or check and, at the same time, increases efficiency and convenience, in this NPRM, we propose certain conditions that carriers must meet if they choose to offer electronically stored or transferred funds in lieu of cash or check DBC payments. These conditions are intended to eliminate characteristics or fees associated with electronically stored or transferred funds that may render the payment less than its value in U.S. dollars. We seek comments on whether these proposed conditions are necessary to ensure passengers' rights to adequate and prompt DBC payments, and whether instead of imposing these conditions, a performance-based standard that merely requires the DBC payment to be ''cash equivalent'' would be sufficient to achieve our goal. Would a performance-based standard without specific conditions as the ones proposed here be more appropriate to adapt to the ever-changing technology in fund payment and transfer? Would a performance-based standard without conditions more likely cause confusion and uncertainty regarding compliance among carriers?

(1) Validity Period and Residual Value

The current rule does not have a specific minimum validity period requirement for DBC payments in the form of checks. According to Article 4 of the Uniform Commercial Code, a bank receiving the check may, but is not obligated to, pay a check that is more than six months old. *See* U.C.C. § 4–404 (2002). As many prepaid cards have an expiration date, in the NPRM, we propose that to be considered cash equivalent, an electronic fund's validity period must be no less than 90 days from the date the passenger receives the fund, or from the date the fund is activated, if activation is required, whichever gives the longer validity period. We seek information on what the common validity period of widely available electronic funds, such as prepaid cards, are, if any. If it is shorter than the typical check's validity period (no longer than six months), should the carriers be required to extend the validity period of the cards to match that of a check? Are there any technical issues with extending a card's validity period to six months or more? Are there any validity periods imposed on funds transferred via platforms owned and operated by other intermediary entities such as *PayPal*? In relation to the validity period of the funds, if there is any value left at the end of the validity period, should the carriers be required to provide the fund to consumers upon request?

(2) Amount of DBC Issued by Electronic Methods

14 CFR 250.5 specifies the amount of DBC a carrier must provide to an eligible passenger following an involuntary denied boarding incident. The amount of DBC varies depending on whether the flight from which the passenger was bumped was a domestic or international flight, the expected delay caused by the denied boarding, and the amount of fare paid by the passenger. In addition to the prescribed calculation formula, section 250.5 specifies that carriers are not required to pay above a certain amount though carriers can always choose to do so. In this NPRM, we are not proposing any changes to the methods of calculating the amount of DBC or the amount above which carriers are not required to pay (currently at $675 and $1,350). However, considering that some prepaid funds and/or electronically transferred funds may incur usage fees for consumers when they attempt to access cash via ATMs, we are proposing to require carriers to take into account these usage fees when determining the amount that must be available from the electronic funds. For example, withdrawing cash from an ATM with a prepaid card may incur usage charges. Some bank-owned ATMs charge usage fees solely to users who are not customers of the bank where the ATM is installed; some ATM usage fees are charged to all users. Further, many ATMs impose a limitation on the amount of cash one can withdraw at a time or daily, and as a result, a consumer may have to make several withdrawals to access the full amount of DBC and therefore, paying multiple usage fees. As such, if a passenger is entitled to a DBC payment of $1,350 that is provided in a prepaid card, and the card provided to the passenger has a $300 limit on the amount that can be withdrawn at one time and a $5 fee for each withdrawal, then the carrier would need to increase the amount of DBC payment on the card by $25. The example of $25 or ATM usage fees

would cover up to five withdrawals at $5 per withdrawal. Are carriers able to provide prepaid cards that can be used at most ATMs without usage charges (*e.g.,* carriers prepay for the anticipated charge)? If not, is there a reasonable amount to cover withdrawal service fees for most instances, or would a determination need to be made on a case by case basis?

In addition to the amount specific to cover ATM usage fees, our proposal also prohibits carriers from imposing on consumers any other usage-related or any maintenance-related charges for the prepaid cards.[4] Our proposal does not intend to require carriers to cover all the fees that can be charged to a prepaid card, such as cash reload fee, or card-to-card transfer fee, but we intend to require carriers to cover any fees that a consumer must pay in order to maintain the validity of the cards.[5] Examples of these fees are weekly or monthly maintenance fees, non-activity fees, balance inquiry fees, and customer service call surcharges. Our goal is to ensure that passengers receive the same amount of DBC payment through electronic format as if they are paid by cash or check. We seek public comment on commonly charged fees that carriers should be responsible for in order to achieve that goal.

Further, because DBC payments often occur in the context of international travel, we specifically note that our proposed additional amount for DBC payment by electronic format to cover usage fees such as ATM fees does not intend to cover any foreign exchange fees that usually occur when a card issued by a U.S. entity is used at an ATM overseas for cash withdrawal or for purchase in foreign currency. This is consistent with the current rule that requires cash or cash equivalent to be provided in U.S. dollars and does not require the DBC amount to cover any foreign exchange fees should the consumers wish to exchange the U.S. dollars into another currency.

Under the proposal, DBC payments that are transferred electronically to a passenger's bank account would presumably become accessible for cash withdrawal with the passenger's own bank debit card. For electronic fund transfers to intermediary accounts, such as *PayPal,* are there any convenient ways to get cash from the account? If not, is the lack of easy and immediate access to cash a big concern for consumers? Are there fees charged to the recipients for the most commonly used means of electronic fund transfer? Should the Department prescribe the specific means of electronic fund transfer that carriers may use to pay DBC, or, is a performance-based standard within which carriers are free to choose the preferred means of electronic fund transfer a better option?

(3) Timeliness of Issuing DBC by Electronic Means

To ensure that passengers who are denied boarding involuntarily receive the DBC payments that they are entitled to in a timely manner, the current rule, in section 250.8 requires that the DBC payment must be tendered to passengers on the day and at the place where the denied boarding occurred, or, in the event that carriers arrange alternate transportation that departs before the DBC payment can be prepared and tendered, carriers must tender the payment by mail or other means within 24 hours of the denied boarding. In this NPRM, we are proposing to maintain this requirement with respect to DBC payments made by cash, check, and cash equivalent provided electronically. We are proposing that tendering payment within 24 hours of the denied boarding may include but is not limited to mailing a check or prepaid card to a passenger within 24 hours of the denied boarding or initiating a fund transfer to the passenger's account within 24 hours of the denied boarding. Is this 24-hour requirement reasonable and adequate for the purpose of tendering electronic cash equivalent?

(4) Type of Electronic Funds and Their Usage in Commerce

In this NPRM, we are proposing to allow any type of electronic payment that is considered ''cash equivalent.'' To be equivalent to cash, we consider that the payment must be widely accepted in commerce for purchases. For example, a prepaid card can be an open-loop or closed-loop card. An open-loop prepaid card is a card with a credit card network logo on it that can be used for purchase at any location that accepts that brand. Examples of the most commonly accepted credit card networks are Visa, MasterCard, American Express, and Discover. All prepaid cards that bear one of the major networks' logos can also be used at most ATMs for cash withdrawal. In contrast, a closed-loop card is a card that can only be used for purchase at a specific merchant or a group of merchants and they usually cannot be used to withdraw cash at an ATM. A typical example of closed-loop card is a gift card for a particular store brand. In the NPRM, we propose that the prepaid card provided to consumers as DBC payment must be an open-loop card so consumers are not restricted with a particular merchant when using the fund for purchase and consumers are able to access cash with the card if so preferred. Furthermore, we note that most ATMs are connected to interbank networks, enabling consumers to withdraw and deposit money from machines not belonging to the bank where they have their accounts or not in the country where their accounts are held (enabling cash withdrawals in local currency). As such, we are also including in our proposal prepaid card payments that allow consumers to withdraw cash from any major interbank network that is widely available, such as NYCE, PULSE, PLUS, and Cirrus, as a permissible type of payments for DBC. We ask for comments on whether our proposal is sufficient to ensure that the electronic payments are cash equivalent and can easily be used to withdraw cash at airports and other locations.

(5) Disclosure and Compliance With Regulation E

The Consumer Financial Protection Bureau (CFPB) rule implementing the Electronic Fund Transfer Act, 12 CFR part 1005 (Regulation E),[6] along with its appendixes (Model Disclosure Clauses and Forms and CFPB Official Interpretations), prescribes various disclosure requirements for, among other things, ''electronic fund transfers'' [7] and ''general-use prepaid card.'' [8] To the extent that a carrier

[4] Examples of common fees for prepaid cards can be found on a web page posted on the Consumer Financial Protection Bureau's website lists. See, *https://www.consumerfinance.gov/consumer-tools/prepaid-cards/understand-fees/.*

[5] Because we are proposing that an electronic cash equivalent payment should be valid for at least 90 days, carriers would be responsible for 90 days of maintenance fees for a card to the extent there is such a fee.

[6] The Electronic Fund Transfer Act establishes the basic rights, liabilities, and responsibilities of consumers who use electronic fund transfer and remittance transfer services and of financial institutions or other persons that offer these services. The primary objective of the Act and 12 CFR part 1005 is the protection of individual consumers engaging in electronic fund transfers and remittance transfers. *See* 12 CFR 1005.1.

[7] For Regulation E's definition for ''electronic fund transfer,'' see FN 2.

[8] 12 CFR part 1005 defines ''general-use prepaid card'' as a card, code, or other device that is issued on a prepaid basis primarily for personal, family, or household purposes to a consumer in a specified amount, whether or not that amount may be increased or reloaded, in exchange for payment; and redeemable upon presentation at multiple, unaffiliated merchants for goods or services, or usable at automated teller machines. *See* 12 CFR 1005.20(a)(3). Further, the rule specifically states that its requirements covering ''general-use prepaid cards'' exclude any cads, code, or device that is not marketed to the general public. As such, it is our preliminary understanding that carrier-issued DBC payment in the form of prepaid card may not be covered by 12 CFR 1005.20 if it is not marketed to

provides DBC payment by a method within the meaning of ''electronic fund transfer'' as defined in Regulation E, we expect that carriers (which are under the Department's jurisdiction) and/or the financial institutions or other entities they use to provide or facilitate the DBC payments (which may fall under the jurisdiction of CFPB) comply with the requirements of Regulation E. Consistent with the goal of Regulation E and our authority under 49 U.S.C. 41712 against unfair and deceptive practices, in this NPRM, we propose to require that carriers provide conspicuous written disclosure of all material restrictions and conditions associated with using and maintaining the card at the time the card is tendered to the passenger. Examples of such conditions would be expiration date, activation requirement, pin requirement, ATM withdrawal fees, daily withdrawal amount limit, and network limit, etc. We encourage individuals and entities having pertinent familiarity with Regulation E to provide input on its applicability towards any DBC payment methods proposed in this notice, and whether there are any difficulties for carriers and others to comply with both Regulation E and our proposals. At this time, we are not proposing to prescribe the manner of written disclosure carriers must use to notify passengers of the limits and restrictions associated with the cards, nor are we proposing the specific language of the disclosure. Consistent with our proposal to allow carriers to provide written notice of denied boarding compensation and boarding priority by electronic means, which will be discussed below, we also propose to allow carriers to provide disclosures of the limits and restrictions on electronic DBC payment by electronic means upon consumers' consent. We ask public input on whether we should require this disclosure to be incorporated into the written notice that carriers are required to provide under section 250.9, when applicable, or whether it is better to provide a standalone disclosure document.

As a final matter for this subject, we emphasize that our proposal would allow carriers to choose from cash, check or cash equivalent electronic payments as a form of mandatory denied boarding compensation payments. Further, this proposal would not impact the ability of carriers to offer consumers a choice between flight vouchers or credits and the mandatory denied boarding compensation payments. For clarification purpose, we propose to revise the rule text in section 250.5(c) to make it clear that airlines may offer consumers the option of choosing either free or reduced rate air transportation or the required DBC payment.

2. Denied Boarding Notice in Electronic Format

The requirement for carriers to provide a written notice regarding denied boarding rights was included in the original oversales final rule in 1978. The stated goal is to ensure that passengers affected by oversales understand what they are entitled to and are able to make an informed choice between accepting DBC or any other compensation offers carriers may present. In this NPRM, we propose to allow carriers to provide this notice electronically, such as by display on an airline tablet, or by email or text message with a link to the actual notice on the internet if the passenger has a device with him or her on which to access this information. However, in our proposal, if a passenger does not consent to receive this notice in electronic format and instead, requests a print copy, carriers must produce the print copy. Our concern with eliminating the requirement of providing printed notice upon request is that the passenger may want not only to read the notice and understand his or her rights in a timely manner before making a decision about denied boarding compensation, but also to retain a copy for further review at a later time. We assume that most if not all carriers are able to produce a print copy using computer terminals at the gates or counters, as many of them already do currently. We solicit comment regarding the benefit and costs of proposing to require carriers to provide printed notice to the passenger upon request. We also request information regarding the availability of email or text messages to passengers when they travel.

With respect to the format of the electronic notice, we ask whether carriers may provide emails or text messages that include a link to the actual notice on a webpage that is a part of the carriers' websites, or whether carriers should be required to provide the text of the notice via emails. Is there any substantial difference between these two formats that affects passengers' access to the content of the notice? For carriers that have mobile applications available for consumers to download on their mobile devices, is including the notice in the mobile applications sufficient for the purpose of oversales disclosure? Passengers with disabilities are normally not subject to involuntary denied boarding as airlines boarding priority rules often take into account a passenger's disability, and the current rule does not require carriers to provide the written notice in an accessible format for these passengers. However, we note that the Department's rule implementing the Air Carrier Access Act, 14 CFR part 382, requires that carriers' primary websites must conform to certain accessibility standards [9] by December 12, 2016, and that requirement would cover the denied boarding notice published on carriers' websites. We view this as an additional benefit of allowing carriers to provide denied boarding notice electronically—by providing the notice in accessible electronic format, passengers with disabilities who under the current rule may not have access to the content of the notice would gain access without assistance.

Regulatory Analyses and Notices

A. Executive Order 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures

This proposed rule is not a significant regulatory action under section 3(f) of E.O. 12866 (58 FR 51735, October 4, 1993), Regulatory Planning and Review, as supplemented by E.O. 13563 (76 FR 3821, January 21, 2011), Improving Regulation and Regulatory Review. Accordingly, the Office of Management and Budget (OMB) has not reviewed it under that Order. It is also not significant within the meaning of DOT regulatory policies and procedures (DOT Order 2100.5 dated May 22, 1980; 44 FR 11034 (February 26, 1979)).

This proposed rule is expected to provide regulatory relief to airlines, while at the same time maintaining aviation consumer protections for passengers. The proposed rule would amend the denied boarding compensation requirements of sections 250.5 and 250.8 to allow carriers to use cash equivalent electronic payment in lieu of cash or check to provide compensation to passengers that are denied boarding involuntarily and are eligible for denied boarding compensation. The proposed rule would also amend the requirements of section 250.9 to allow carriers to provide the mandatory written explanation of denied boarding compensation by electronic means in lieu of a paper copy

the general public. It may still have to comply with other sections of Regulation E.

[9] 14 CFR 382.43(b) requires carriers' primary websites to conform to all Success Criteria and all Conformance Requirements from the World Wide Web Consortium (W3C) Recommendation 11 December 2008, website Content Accessibility Guidelines (WCAG) 2.0 for Level AA.

with the consent of the passenger. The proposed rule would not impact the existing requirements regarding denied boarding compensation eligibility for passengers that are denied boarding involuntarily, or the existing requirements regarding the methods of calculating the amount of compensation for passengers that are denied boarding involuntarily.

The primary entities that would be affected by this proposed rule are U.S. and foreign carriers to which the requirements of 14 CFR part 250 apply, and passengers with confirmed reserved space on scheduled flight segments operated by those carriers and that are denied boarding involuntarily and are eligible for denied boarding compensation. The requirements of 14 CFR part 250 apply to carriers that operate scheduled flight segments using an aircraft that has a designed passenger capacity of 30 or more passenger seats, operating in interstate air transportation or providing foreign air transportation on flight segments originating in the United States. It is currently estimated that there are approximately 45 U.S. carriers and 65 foreign carriers to which the requirements of 14 CFR part 250 apply.

Airlines are required to pay compensation to certain passengers who are involuntarily denied boarding from flights on which they hold confirmed reservations. The amount of the compensation depends on the length of delay to their destination. The practice, known as ''bumping'' or ''denied boarding,'' happens occasionally when there are more passengers scheduled to fly on an airplane than available seats. In rare circumstances, this practice may be needed to accommodate a Federal Air Marshall on the plane. When such an oversales situation occurs, airlines are first required to ask if there are passengers willing to give up their seats voluntarily in exchange for compensation, which could include a variety of incentives including money or flight vouchers, for example. Passengers who choose to give up their seat are considered to have been ''voluntarily denied boarding.'' If there are not enough volunteers available, any other additional passenger denied boarding is considered to have been ''involuntarily denied boarding.''

Currently, airlines are required to offer cash or check for compensation to passengers who are involuntarily denied boarding and are eligible for compensation, in the amount of 200 percent of the passenger's one-way fare to their destination or first stopover, up to $675, if the delay is 1 to 2 hours (1 to 4 hours in foreign air transportation where involuntary denied boarding takes place at a U.S. airport), and 400 percent of the fare, up to $1,350, if the delay is over 2 hours (over 4 hours in foreign air transportation where involuntary denied boarding takes place at a U.S. airport). Airlines may offer consumers a choice between the required denied boarding compensation and free or reduced fare air transportation compensation at equal to or greater value (in addition to finding alternate transportation for the denied flight). However, the passenger involuntarily denied boarding may decline this transportation benefit in favor of cash or check. Airlines often do not hold cash at boarding locations and handle the compensation by mailing a check within 24 hours of the time of denied boarding.

Table 1 below provides a summary of the annual reported number of involuntarily denied boardings for the most recent five year period for which data was available (calendar years 2013 through 2017).

TABLE 1—PASSENGERS INVOLUNTARILY DENIED BOARDING

Calendar year	Number of reporting carriers	Total enplaned passengers	Passengers involuntarily denied boarding						
			Not eligible for compensation		Eligible for compensation			Total	
			Number	Percent of total	Number	Percent of total	Rate per 10,000 passenger enplanements	Number	Rate per 10,000 passenger enplanements
2013	16	620,515,005	14,642	26	42,354	74	0.68	56,996	0.92
2014	14	601,733,197	14,330	28	35,957	72	0.60	50,287	0.84
2015	14	645,055,901	17,801	36	31,767	64	0.49	49,563	0.77
2016	12	660,618,265	16,724	41	24,402	59	0.37	41,126	0.62
2017	12	680,889,723	8,680	37	14,543	63	0.21	23,223	0.34
Annual Average			14,435	33	29,805	67	0.46	44,239	0.69

Source: U.S. Department of Transportation. Bureau of Transportation Statistics. Data from Form 251 ''Report of Passengers Denied Confirmed Space.'' Data available at: *https://www.bts.gov/denied-confirmed-space* (accessed May 4, 2018).

As presented in Table 1, over the most recent five year period, those U.S. carriers meeting the reporting requirement threshold [10] for oversales data recorded an average of approximately 45,000 involuntarily denied boardings annually, with the number steadily decreasing throughout this period from a high of 57,000 in 2013 to a low of 23,000 in 2017. Over the same time period, total passenger enplanements for these reporting carriers (excluding inbound international service, to which the oversales regulations are not applicable) have increased from 621 million in 2013 to 681 million in 2017, resulting in an even greater decrease in the rate of involuntarily denied boardings per 10,000 passenger enplanements, from 0.92 in 2013 to only 0.34 in 2017.[11]

As also presented in Table 1, only about two-thirds of total involuntarily denied boardings are eligible for compensation and therefore would potentially be affected by the proposed rule. The remaining one-third of involuntarily denied boardings are not eligible for compensation, and therefore would not be affected by the proposed rule.[12] Over the most recent five year

[10] For the five years presented in the table, the reporting requirement threshold was U.S. airlines with at least 1.0% of total domestic scheduled-service passenger revenues. As of 2018, the reporting requirement threshold is U.S. airlines with at least 0.5% of total domestic scheduled-service passenger revenues, resulting in a somewhat higher number of reporting carriers (17 reporting carriers as of April 2018).

[11] U.S. Department of Transportation. Bureau of Transportation Statistics. Data from Form 251 ''Report of Passengers Denied Confirmed Space.'' Data available at: *https://www.bts.gov/denied-confirmed-space* (accessed May 4, 2018).

[12] The reasons for which a passenger who is involuntarily denied boarding would not be eligible for compensation are enumerated in section 250.6, which remains unchanged in the proposed rule. These reasons include: receiving comparable transportation that is scheduled to arrive within one hour of the original flight; receiving seating at no extra charge in a class or section of the aircraft

period, there were an average of 30,000 involuntarily denied boardings eligible for compensation annually, again with the number steadily decreasing throughout this period from a high of 42,000 in 2013 to a low of 15,000 in 2017. Early indications from data available for the first 6 months of 2018 show a continued decline in the number of involuntarily denied boardings.[13]

The number of carriers that are required to report oversales data to the Department on Form 251 (17 U.S. carriers as of April 2018) represent only a portion of the estimated number of carriers to which the oversales requirements of 14 CFR part 250 apply (45 U.S. carriers, and 65 foreign carriers). However, because this smaller number of reporting carriers are the top-ranked U.S. carriers in terms of domestic scheduled-service passenger revenues, they are believed to represent a disproportionately large share of the total involuntarily denied boardings that occur among the full population of the estimated 45 U.S. carriers and 65 foreign carriers to which the oversales requirements of 14 CFR part 250 apply. Therefore, the data presented above from the reporting carriers are still believed to be reasonably representative in describing the extent to which passengers that are involuntarily denied boarding and are eligible for compensation would potentially be affected by the proposed rule.

Overall, the information presented above supports the conclusion that the maximum expected number of passengers traveling on U.S. carriers that would experience any potential impact from the proposed rule is very limited (only 0.0021% of enplanements in 2017), has been steadily decreasing over the past several years, and appears to be continuing that trend based on data thus far available for 2018. The Department does not require foreign air carriers to report the number of passengers who are involuntarily denied boarding on their outbound international flights from the U.S., and therefore such data are unavailable. However, anecdotal evidence suggests that among foreign carriers the rate of involuntarily denied boardings, and the percentage of involuntarily denied boardings that are eligible for compensation, are generally comparable to those of U.S. carriers.

Passengers denied boarding voluntarily receive compensation in a variety of forms, including through electronic payment methods. Making cash equivalent electronic payment (with appropriate consumer protections) available to the airlines for involuntary denied boarding compensation will expand the flexibility that already exists in the market. While offering this flexibility and greater choice to the airlines, the proposed rule ensures passengers are protected by specifying cash equivalent electronic payment, and by limiting the extent to which certain fees sometimes associated with cash equivalent electronic payment can be imposed.

Under the proposed amendments to the requirements of section 250.9 that a written explanation of denied boarding compensation be furnished to passengers that are denied boarding involuntarily, carriers would be allowed to furnish this notice by electronic means with the consent of the passenger. It is anticipated that carriers would realize a cost savings from this proposed amendment. These cost savings are expected to result from reductions in the number of hardcopy printed written statements that would be furnished by carriers to passengers, and the associated cost savings from reductions in paper, printing, distribution, and storage. The magnitude of these potential costs savings to carriers cannot be estimated, in part because under the proposed rule the decision by a carrier to furnish the written statement by electronic means is discretionary, as is the decision by a passenger to choose an electronic version of the written statement when one is offered by a carrier rather than a hardcopy printed version.

Both proposals are expected to provide modest cost savings to airlines from reductions in costs of handling and processing cash and checks, and reductions in costs of printing and distributing hardcopy printed statements. The decision by an airline to offer cash equivalent electronic payment, or an electronic version of written explanation of denied boarding, is discretionary. Therefore, it is expected that an airline would only adopt these options to the extent that they result in net cost savings. Because of the discretionary nature of these choices, the total potential cost savings of these proposals to airlines cannot be estimated. However, due to the relatively small number of passengers denied boarding involuntarily and eligible for compensation, the cost savings to airlines are expected to be modest. Nonetheless, recent comments provided by the airline industry indicate that carriers do believe that they would realize cost savings from being allowed the option to provide cash equivalent electronic payment for denied boarding compensation in lieu of cash or check, and from being allowed the option to furnish the written explanation of denied boarding by electronic means.[14]

B. Executive Order 13771 (Reducing Regulation and Controlling Regulatory Costs)

This proposed rule is expected to be an E.O. 13771 deregulatory action. Details on the estimated cost savings of this proposed rule can be found in the rule's economic analysis.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 (RFA) (5 U.S.C. 601 *et seq.*) requires Federal agencies to consider the effects of their regulatory actions on small businesses and other small entities, and to minimize any significant economic impact. When an agency issues a rulemaking proposal, the RFA requires the agency to ''prepare and make available for public comment an initial regulatory flexibility analysis'' which will ''describe the impact of the proposed rule on small entities'' (5 U.S.C. 603(a)). Section 605 of the RFA allows an agency to certify a rule, in lieu of preparing an analysis, if the proposed rulemaking is not expected to have a significant economic impact on a substantial number of small entities.

The primary entities that would be affected by this proposed rule are carriers to which the requirements of 14 CFR part 250 apply, and passengers

different than that specified on the ticket, and receiving an appropriate refund if the fare charged in the new class or section is lower than that for the original ticket; failing to comply with ticketing, check-in, or reconfirmation procedures; an aircraft of smaller capacity is substituted for the original aircraft for operational or safety reasons; or an aircraft of 60 of fewer seats has weight/balance restrictions for operational or safety reasons.

[13] U.S. Department of Transportation. Office of Aviation Enforcement and Proceedings. ''Air Travel Consumer Report.'' October 2018. Page 41. Available at: *https://www.transportation.gov/sites/dot.gov/files/docs/resources/individuals/aviation-consumer-protection/323346/october2018atcr.pdf* (accessed on November 13, 2018). For the 6 months of January through June of 2018, 17 reporting airlines recorded a total of only 4,685 involuntarily denied boardings. During the same 6-month period in 2017, 12 reporting airlines recorded 17,757 involuntarily denied boardings, nearly four times as many, despite the smaller number of 12 airlines meeting the reporting requirement threshold for 2017 (U.S. airlines with at least 1.0% of total domestic scheduled-service passenger revenues), as compared to larger number of 17 airlines meeting the reporting threshold for 2018 (U.S. airlines with at least 0.5% of total domestic scheduled-service passenger revenues).

[14] ''Comments of Airlines for America. Part Two: Proposals for Repeal or Amendment of Specific DOT Economic Regulations.'' December 1, 2017. Docket ID number DOT–OST–2–17–0069–2751. Pages 64–65. December 4, 2017. Available at: *https://www.regulations.gov/contentStreamer?documentId=DOT-OST-2017-0069-2751&attachmentNumber=1&contentType=pdf* (accessed May 2, 2018).

with confirmed reserved space on scheduled flight segments operated by those carriers and that are denied boarding involuntarily and are eligible for denied boarding compensation. Airline passengers are not considered small entities because they do not meet the definition of a small entity in Section 601 of the RFA. Under 14 CFR 399.73, for the purposes of the Department's implementation of the RFA, a carrier is a small business if it provides air transportation exclusively with small aircraft, defined as any aircraft originally designed to have a maximum passenger capacity of 60 seats or less or a maximum payload capacity of 18,000 pounds or less.

The requirements of 14 CFR part 250 apply to carriers that operate scheduled flight segments using an aircraft that has a designed passenger capacity of 30 or more passenger seats, operating in interstate air transportation or providing foreign air transportation on flight segments originating in the United States. It is currently estimated that there are approximately 45 U.S. carriers and 65 foreign carriers to which the requirements of 14 CFR part 250 apply. Of these, there may be some that qualify as a small business according to the Department's size standard under 14 CFR 399.73 (exclusively using aircraft of 60 seats or less). However, the Department believes that the number of such carriers is very small. For example, based April 2018 aircraft registration data from the Federal Aviation Administration for manned-aircraft, less than one percent of registered aircraft (2,054 of 294,387 total aircraft) are aircraft designed with a capacity of 30 to 60 passengers seats. There are also very few foreign carriers that fly to and from the United States that provide air transportation only with small aircraft of 60 seats or less. Given the relatively small number of aircraft that fall within the size range of interest, and the small number of foreign carriers believed to operate only with aircraft of 60 seats or less, the Department believes that there would be very few carriers that are both subject to 14 CFR part 250 and that are providing air transportation exclusively with small aircraft with a maximum passenger capacity of 60 seats or less or a maximum payload capacity of 18,000 pounds or less. Therefore, the Department believes that the proposed rule will not have an impact on a substantial number of small entities.

As described earlier, due to the relatively small number of passengers that are denied boarding involuntarily and that therefore may be affected by the proposed rule, the potential cost savings to airlines of the proposed rule are expected to be modest, and relative to the gross revenues or profits of any affected airlines would not constitute a significant economic impact.

Accordingly, the Department certifies that the proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. The Department invites comment on this certification and on the analysis presented in support of it.

D. Executive Order 13132 (Federalism)

This NPRM has been analyzed in accordance with the principles and criteria contained in Executive Order 13132 (''Federalism''). This notice does not propose any provision that: (1) Has substantial direct effects on the States, the relationship between the national government and the States, or the distribution of power and responsibilities among the various levels of government; (2) imposes substantial direct compliance costs on State and local governments; or (3) preempts State law. States are already preempted from regulating in this area by the Airline Deregulation Act, 49 U.S.C. 41713. Therefore, the consultation and funding requirements of Executive Order 13132 do not apply.

E. Executive Order 13084

This NPRM has been analyzed in accordance with the principles and criteria contained in Executive Order 13084 (''Consultation and Coordination with Indian Tribal Governments''). Because none of the options on which we are seeking comment would significantly or uniquely affect the communities of the Indian tribal governments or impose substantial direct compliance costs on them, the funding and consultation requirements of Executive Order 13084 do not apply.

F. Paperwork Reduction Act

This NPRM proposes a new collection of information that would require approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 49 U.S.C. 3501 *et seq.*). Under the Paperwork Reduction Act, before an agency submits a proposed collection of information to OMB for approval, it must publish a document in the **Federal Register** providing notice of the proposed collection of information and a 60-day comment period, and must otherwise consult with members of the public and affected agencies concerning the proposed collection.

The collection of information proposed here is a requirement that carriers choosing to issue DBC by prepaid cards, electronic fund transfer, or other cash equivalent methods provide conspicuous written disclosure to passengers about any restrictions and limitation on the use and maintenance of the funds. The title, a description of the respondents, and an estimate of the annual recordkeeping burden are set forth below:

REQUIREMENT FOR CARRIERS TO PROVIDE WRITTEN DISCLOSURE ON LIMITS AND RESTRICTIONS OF ELECTRONIC PAYMENTS THAT ARE CASH EQUIVALENT OFFERED AS DENIED BOARDING COMPENSATION.

Respondents: U.S. carriers that operate scheduled passenger service using an aircraft that has a designed passenger capacity of 30 or more passenger seats, and foreign air carriers that operate scheduled passenger service to and from the United States using an aircraft that has a designed passenger capacity of 30 or more passenger seats.

Number of Respondents: 110 (45 U.S. carriers and 65 foreign carriers; assuming all U.S. and foreign carriers covered under 14 CFR part 250 choose to provide DBC by electronic payments that are cash equivalent).

Estimated Annual Burden on Respondents: 3,125 hours per year for all respondents. This estimate is based on an average of approximately 45,000 passengers that were involuntarily denied boarding annually by reporting carriers [15] in the last five years between 2013 and 2017, among which an average of 67 percent were legally eligible for compensation, averaging 30,000. According to data collected by the Department, these reporting carriers' combined annual U.S.-originating passenger enplanements counted for approximately 80 percent of the total annual enplanements for U.S.-originating passengers carried by all U.S. and foreign carriers. Based on this data, we estimate that the total number of passengers that were denied boarding annually by all carriers subject to Part 250 and are legally entitled to DBC to be 37,500 (80 percent of which were denied boarding by reporting carriers and 20 percent by all other carriers) [16]. We estimate an average burden of 5

[15] For calendar years prior to 2018, reporting carriers for the purpose of submitting oversales data to the Department pursuant to 14 CFR 250.10 were U.S. carriers that accounted for at least 1 percent of domestic scheduled passenger revenue. The list of reporting carriers were identified by BTS through the publication of reporting technical directives.

[16] The Department does not collect oversales data from smaller U.S. carriers that do not qualify as reporting carriers and foreign carriers, and we estimate that the actual percentage of passengers involuntarily denied boarding to be much smaller by the non-reporting U.S. carriers and by foreign carriers at U.S. airports.

minutes for the disclosure required by this proposal per passenger denied boarding involuntarily. The total estimated annual burden on all respondents would be 37,500 × 5 minutes = 3,125 hours.

Frequency: Disclosure is required each time a carrier provides DBC with an electronic DBC payment to a passenger who was denied boarding involuntarily.

The Department invites interested persons to submit comments on any aspect of each of these two information collections, including the following: (1) The necessity and utility of the information collection, (2) the accuracy of the estimate of the burden, (3) ways to enhance the quality, utility, and clarity of the information to be collected, and (4) ways to minimize the burden of collection without reducing the quality of the collected information. Comments submitted in response to this notice will be summarized or included, or both, in the request for OMB approval of these information collections.

G. Unfunded Mandates Reform Act

The Department has determined that the requirements of Title II of the Unfunded Mandates Reform Act of 1995 do not apply to this notice.

H. National Environmental Policy Act

The Department has analyzed the environmental impacts of this proposed action pursuant to the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 *et seq.*) and has determined that it is categorically excluded pursuant to DOT Order 5610.1C, Procedures for Considering Environmental Impacts (44 FR 56420, Oct. 1, 1979). Categorical exclusions are actions identified in an agency's NEPA implementing procedures that do not normally have a significant impact on the environment and therefore do not require either an environmental assessment (EA) or environmental impact statement (EIS). See 40 CFR 1508.4. In analyzing the applicability of a categorical exclusion, the agency must also consider whether extraordinary circumstances are present that would warrant the preparation of an EA or EIS. Id. Paragraph 4.c.6.i of DOT Order 5610.1C categorically excludes ''[a]ctions relating to consumer protection, including regulations.'' The purpose of this action is to explore additional means for U.S. and foreign air carriers to compensate passengers who are involuntarily denied boarding in an oversales situation and allow carriers to use electronic payment methods in lieu of cash or check DBC payments. The Department does not anticipate any environmental impacts, and there are no extraordinary circumstances present in connection with this rulemaking.

Issued this 20th day of March, 2019, in Washington DC.

Elaine L. Chao,

Secretary of Transportation.

List of Subjects in 14 CFR Part 250

Air carriers, Consumer protection, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, the Department proposes to amend title 14 CFR Chapter II as follows:

PART 250—OVERSALES [AMENDED]

■ 1. The authority citation for 14 CFR part 250 continues to read as follows:

Authority: 49 U.S.C. 329, and chapters 401102, 41301, 41708, and 41712.

■ 2. Amend § 250.5 by revising paragraph (c) to read as follows:

§ 250.5 Amount of denied boarding compensation for passengers denied boarding involuntarily.

* * * * *

(c) Carriers may offer to consumers the option of choosing between free or reduced rate air transportation as a form of denied boarding compensation and the required cash, check, or cash equivalent electronic payments due under paragraphs (a) and (b) of this section, if—

(1) The value of the transportation benefit offered, excluding any fees or other mandatory charges applicable for using the free or reduced rate air transportation, is equal to or greater than the cash/check/cash equivalent electronic payment otherwise required;

(2) The carrier fully informs the passenger of the amount of cash/check/cash equivalent electronic compensation that would otherwise be due and that the passenger may decline the transportation benefit and receive the cash/check/cash equivalent electronic payment; and

(3) The carrier fully discloses all material restrictions, including but not limited to, administrative fees, advance purchase or capacity restrictions, and blackout dates applicable to the offer, on the use of such free or reduced rate transportation before the passenger decides to give up the cash/check/cash equivalent electronic payment in exchange for such transportation. (See also § 250.9(c)).

* * * * *

■ 3. Amend § 250.8 by revising paragraphs (a) and (b), and adding new paragraph (c) to read as follows:

§ 250.8 Denied boarding compensation.

(a) Every carrier shall tender to a passenger eligible for denied boarding compensation, on the day and place the denied boarding occurs, except as provided in paragraphs (b) and (c), cash, an immediately negotiable check, or electronic payments that are equivalent to cash for the appropriate amount of compensation provided in section 250.5. Compensation paid by electronic payments that are cash equivalent shall be in the amounts described in sections 250.5(a) and 250.5(b), plus an additional amount, as appropriate, to cover potential usage charges described in paragraph (d).

(b) Where a carrier arranges for the passenger's convenience, alternate means of transportation that departs before payment can be given to the passenger, tender shall be made within 24 hours after the time the denied boarding occurs. Tendering funds includes but is not limited to sending a check or prepaid card by mail, initiating an electronic transfer of funds to a passenger's account and sending an email or text message with link and instructions to access to funds.

(c) Any electronic payments offered for denied boarding compensation as equivalent to cash must satisfy the following requirements:

(1) The electronic fund must be valid for at least 90 days from the date the fund is tendered to the passenger who was involuntarily denied boarding, or from the date the fund is activated if activation is required, whichever is later;

(2) Any electronic fund provided to consumers as cash equivalent for DBC payment must be a product that is widely accepted by major payment networks for purchases and must be available for cash withdrawal on major ATM networks;

(3) The electronic fund must not impose on consumers maintenance-related or other usage-related charges during the validity period as required by paragraph (c)(1) of this section, including but not limited to weekly or monthly maintenance fees, non-activity fees, balance inquiry fees, and customer service call surcharges. The electronic fund may impose other fees that are beyond the purpose of DBC payment, such as foreign transaction fees for purchases with or withdrawal of currency other than U.S. dollars.

(4) Carriers must provide conspicuous written disclosure of all restrictions and conditions associated with using the electronic fund at the time the fund is tendered to the passenger, consistent with section 250.9(c).

■ 4. Amend § 250.9 by revising paragraph (a), the ''Method of Payment'' section of paragraph (b), paragraph (c), and adding new paragraph (d) to read as follows:

§ 250.9 Written explanation of denied boarding compensation and boarding priorities, and verbal notification of denied boarding compensation.

(a) Every carrier shall furnish passengers who are denied boarding involuntarily from flights on which they hold confirmed reserved space immediately after the denied boarding occurs, a written statement explaining the terms, conditions, and limitations of denied boarding compensation, and describing the carriers' boarding priority rules and criteria. The carrier shall also furnish the statement to any person upon request at all airport ticket selling positions which are in the charge of a person employed exclusively by the carrier, or by it jointly with another person or persons, and at all boarding locations being used by the carrier. Carriers may furnish this written statement by electronic means, unless the recipient specifically requests receiving it in a printed format. Statement furnished by electronic means shall be immediately accessible by commonly used electronic devices such as mobile phones or tablets.

(b) * * *

Method of Payment

Except as provided below, the airline must give each passenger who qualifies for involuntary denied boarding compensation a payment for the amount specified above, on the day and at the place the involuntary denied boarding occurs. The airline may choose to pay denied boarding compensation by cash, check, or electronic payments that are equivalent to cash payments. Denied boarding compensation paid by an electronic payment shall be in the amount specified above plus an additional amount, if appropriate, sufficient to cover any potential usage charges such as ATM withdrawal fees. The airline may not impose any other additional charges and fees for the use and maintenance of the electronic fund for at least 90 days from the date the fund becomes accessible to consumers. If the airline arranges alternate transportation for the passenger's convenience that departs before the payment can be made, the payment shall be sent to the passenger within 24 hours. The carrier may offer free or discounted transportation in place of the cash or cash equivalent payment. In that event, the carrier must disclose all material restrictions on the use of the free or discounted transportation before the passenger decides whether to accept the transportation in lieu of cash or cash equivalent payment. The passenger may insist on the required payment or refuse all compensation and bring private legal action.

* * * * *

(c) In addition to furnishing passengers with the carrier's written statement as specified in paragraphs (a) and (b) of this section, if the carrier chooses to use cash equivalent electronic payments for denied boarding compensation payment, the carrier must disclose any material restrictions or conditions applicable to the payments to the involuntarily bumped passenger in writing at the time of tendering electronic funds. Carriers may provide this disclosure by electronic means, unless the recipient specifically requests receiving it in a printed format. Disclosure furnished by electronic means shall be immediately accessible by commonly used electronic devices such as mobile phones or tablets.

(d) If the carrier orally advises involuntarily bumped passengers that they are entitled to receive free or discounted transportation as denied boarding compensation, the carrier must also orally advise the passengers of any material restrictions or conditions applicable to the free or discounted transportation and that they are entitled to choose cash, a check, or electronic cash equivalent payment instead.

[FR Doc. 2019–05858 Filed 3–27–19; 8:45 am]

BILLING CODE P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 573

[Docket No. FDA–2019–F–0670]

Uralkali PSJ; Filing of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notification; petition for rulemaking.

SUMMARY: The Food and Drug Administration (FDA, the Agency, or we) is announcing that we have filed a petition, submitted by Uralkali PSJ, proposing that the food additive regulations be amended to provide for the safe use of yellow prussiate of soda as an anticaking agent for potassium chloride in animal food.

DATES: Submit either electronic or written comments on the petitioner's environmental assessment by April 29, 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 29, 2019. The *https://www.regulations.gov* electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of April 29, 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–F–0670 for ''Food Additives Permitted in Feed and Drinking Water of Animals; Yellow Prussiate of Soda.'' 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, 7519 Standish Pl., Rockville, MD 20855, 240–402–6729, *Chelsea.Trull@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (section 409(b)(5) (21 U.S.C. 348(b)(5))), we are giving notice that we have filed a food additive petition (FAP 2307), submitted by Uralkali PSJ, Ul., Pyatiletki 63, Berezniki, Perm Territory, 618426, Russia. The petition proposes to amend the food additive regulations in 21 CFR part 573 *Food Additives Permitted in Feed and Drinking Water of Animals* to provide for the safe use of yellow prussiate of soda as an anticaking agent for potassium chloride in animal food.

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 environmental assessment 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 view 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 environmental assessment 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 22, 2019.

Lowell J. Schiller,

Acting Associate Commissioner for Policy.

[FR Doc. 2019–05954 Filed 3–27–19; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 900

[Docket No. FDA–2013–N–0134]

RIN 0910–AH04

Mammography Quality Standards Act

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA or Agency) is proposing to update the mammography regulations that were issued under the Mammography Quality Standards Act of 1992 (MQSA) and the Federal Food, Drug, and Cosmetic Act (FD&C Act). We are proposing updates to modernize the regulations by incorporating current science and mammography best practices. These updates would improve the delivery of mammography services by strengthening the communication of healthcare information; allowing for more informed decision making by patients and providers (by requiring facilities to provide them with additional health information); helping to ensure the availability of qualified mammography personnel; bolstering the medical outcomes audit to provide feedback to improve mammography interpretations; modernizing technological aspects of the standards; and adding additional tools to deal with noncompliant facilities.

DATES: Submit either electronic or written comments on the proposed rule by June 26, 2019. Submit comments on information collection issues under the Paperwork Reduction Act of 1995 by April 29, 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 June 26, 2019. The *https://www.regulations.gov* electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of June 26, 2019. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

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

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

Written/Paper Submissions

Submit written/paper submissions as follows:

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

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

Instructions: All submissions received must include the Docket No. FDA–2013–N–0134 for ''Mammography Quality Standards Act; Amendments to Part 900 Regulations.'' 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 *http://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

Submit comments on information collection issues under the Paperwork Reduction Act of 1995 to the Office of Management and Budget (OMB) in the following ways:

• Fax to the Office of Information and Regulatory Affairs, OMB, Attn: FDA Desk Officer, Fax: 202–395–7285, or email to *oira_submission@omb.eop.gov.* All comments should be identified with the title, Mammography Quality Standards Act; Amendments to Part 900 Regulations.

FOR FURTHER INFORMATION CONTACT:

Preetham Sudhaker, Division of Mammography Quality Standards (DMQS), Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Silver Spring, MD 20993, 301–796–5911.

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I. Executive Summary

A. Purpose of the Proposed Rule

Mammography is an x-ray imaging examination used to identify signs of breast cancer. For women to receive the full benefit of mammography, the service must be of high quality, including performance of the examination by qualified technologists; using equipment that is tested and properly functioning; interpretation by qualified physicians; and clear and prompt communication of results to patients and their referring healthcare providers. The MQSA establishes uniform baseline Federal standards designed to ensure that all women nationwide have access to quality mammography services, and its implementing regulations address standards for accreditation bodies and certifying agencies, qualifications of personnel at mammography facilities, standards for mammography equipment, quality assurance testing, recordkeeping, and communication of results. Based on technology changes in mammography and our experience with the administration of the MQSA program, FDA is proposing to modernize and improve the regulations as well as improve the information, including breast density information, provided by mammography facilities to patients and their healthcare providers. The proposed changes would require that the lay summary provided to patients identify whether the patient has low or high density breasts and include a prescribed paragraph on the significance of breast density. They would also establish four categories for reporting breast tissue density in the mammography report that is provided to the patient's referring healthcare provider.

B. Legal Authority

The MQSA (Pub. L. 102–539) was enacted on October 27, 1992, and is codified under the Public Health Service (PHS) Act (42 U.S.C. 263b; section 354 of the PHS Act). Under the MQSA, all mammography facilities, except facilities of the Department of Veteran Affairs (VA), must be accredited by an approved accreditation body and certified by FDA (or an approved State certification agency) to provide mammography services (42 U.S.C. 263b(b)(1), (d)(1)(iv)). FDA is proposing these amendments to the mammography regulations (set forth in part 900 (21 CFR part 900)) under section 354 of the PHS Act (42 U.S.C. 263b), and sections of the FD&C Act (sections 519, 537, and 704(e); 21 U.S.C. 360i, 360nn, and 374(e)).

C. Summary of the Major Provisions of the Proposed Rule

FDA is proposing three categories of improvements to our mammography regulations: Improvements that address changes in mammography technology; improvements that enhance enforcement of quality standards; and improvements in the way mammography results are categorized, reported, retained, and transferred to patients and healthcare providers.

- New and amended proposed provisions related to technology would, among other things, update several equipment and quality control provisions in the regulations to address current technology, including digital mammography.
- Improvements that enhance enforcement would, among other things:
  - Require that mammograms submitted for interpretation be presented in the mammographic modality in which they were originally produced, and not be copied or digitized, which could adversely affect the accuracy of interpretation;
  - Prohibit accreditation bodies from accepting an application for accreditation from a facility that has failed to become accredited after three consecutive attempts until 1 year after the most recent accreditation failure;
  - Expressly state that a facility's certificate may be suspended or revoked due to a failure to comply with reasonable requests by FDA, the State certification agency, or the accreditation body for records, including clinical images for an additional mammography review (AMR), or with reasonable requests by current or former facility personnel for records documenting their qualifications;
  - Add the State certification agency as an entity that may initiate an AMR, which can help detect quality issues, and also to state expressly that FDA and the State certification agency can notify patients and their providers individually or through the mass media when a facility is unable or unwilling to perform a required patient and referring physician notification (PPN), which would help to ensure that patients and providers are informed of serious risks to human health resulting from mammography that fails to meet quality standards;
  - Require that, before a facility closes or no longer provides mammography services, it must make arrangements for access by patients and healthcare providers to mammography images and reports; and
  - Require facilities to provide personnel with copies of their MQSA qualification records, which are often needed to work at additional or new facilities.
- Improvements in the way mammography results are categorized, reported, retained, and transferred to patients and healthcare providers would, among other things:
  - Require that the mammographic examination report include the facility name and location (at a minimum, the city, State, and ZIP code of the facility), in order to help to ensure that healthcare providers can obtain the necessary information to enable them to assist women in making informed healthcare decisions;
  - Change the explanatory language in one final assessment category (''benign'') to promote greater consistency and accuracy in the use of the category, and add three new categories of mammographic assessment to the existing categories in the regulations, which would allow mammography facilities to more precisely classify and communicate findings;
  - Add a specific, required timeframe for facilities to deliver medical reports to healthcare providers and the summary written in lay language to patients whose mammograms have either ''Suspicious'' or ''Highly suggestive of malignancy'' final assessment categories, which could lead to earlier definitive tissue diagnosis of malignancy and earlier start of treatment, and avoid, for the patient, the anxiety of a protracted waiting period;
  - Require reporting to patients and healthcare providers to include an assessment of breast density, in order to provide them with additional information about their mammography and the potential limitations of their mammogram results so they and their healthcare providers can make informed healthcare decisions;
  - Require each mammography facility to implement policies and procedures to minimize the loss of mammography images and reports because the loss of these records can have a significant, negative impact on clinical care, and also specify the timeframe within which facilities must transfer original mammograms and copies of reports to patients, healthcare providers, and others because delays in the transfer of these records can lead to delays in diagnosis or treatment; and
  - Clarify the minimum information that facilities must collect during the mammography medical outcomes audit because calculating and tracking these values is important to the evaluation of accuracy in detecting breast cancer, allowing facilities and interpreting physicians to review their performance and enact quality improvement measures.

D. Costs and Benefits of the Proposed Rule

The primary public health benefits of the proposed rule come from the potential for earlier breast cancer detection, improved morbidity and mortality, resulting in reductions in cancer treatment costs.

The quantified benefits are derived from reduced mortality and breast cancer treatment costs resulting from the breast density reporting requirements. The estimate of annualized benefits over 10 years ranges from $16.27 million to $466.75 million at a 7 percent discount rate and $16.27 million to $534.03 million at a 3 percent discount rate. The costs of the proposed rule include costs to mammography facilities to comply with the proposed requirements and costs associated with supplemental testing and biopsies resulting from the breast density requirements. The estimate of annualized costs over 10 years ranges from $34.96 million to $60.50 million at a 7 percent discount rate with a primary value of $47.03 million. Using a 3 percent discount rate, the annualized costs range from $33.86 million to $59.40 million with a primary value of $45.92 million. The primary estimate of the present value of costs over 10 years is $330.29 million at a 7 percent discount rate and $391.74 million at a 3 percent discount rate.

II. Table of Abbreviations and Acronyms Commonly Used in This Document

American College of Radiology.	ACR.
Centers for Disease Control and Prevention.	CDC.
Conference of Radiation Control Program Directors, Inc.	CRCPD.
Division of Mammography Quality Standards.	DMQS.
Food and Drug Administration	FDA or we.
Federal Food, Drug, and Cosmetic Act.	FD&C Act.
Institute of Medicine	IOM.
Mammography Quality Standards Act of 1992.	MQSA.
Mammography Quality Standards Reauthorization Acts of 1998 and 2004.	MQSRA.
National Mammography Quality Assurance Advisory Committee.	NMQAAC.
Public Health Service Act	PHS Act.

III. Background

According to the Centers for Disease Control and Prevention (CDC), in 2014, the most recent year for which numbers are available, over 235,000 women were diagnosed with breast cancer, and more than 41,000 women died of the disease (Ref. 1). According to the National Cancer Institute of the National Institutes of Health, in 2017, over 250,000 women were projected to be diagnosed with breast cancer, and over 40,000 women were projected to die of the disease (Ref. 2). Among women, breast cancer is now the most common non-skin cancer and the second leading cause of cancer deaths after lung cancer (Ref. 3). Early detection of breast cancer, typically involving breast physical examination and mammography, is the best means of preventing deaths that can result if the diagnosis is delayed until the onset of more advanced symptoms (Ref. 4). Mammography is a type of medical imaging that uses x-rays to create images (mammograms) of the internal structures of the breasts. There are three types of mammography referred to in this document: Screen-film mammography, full field digital mammography, and digital breast tomosynthesis. In screen-film mammography, x-rays are transmitted through the breast and expose a sheet of x-ray film enclosed in a cassette. In full field digital mammography, the x-rays go through to an image receptor that is a radiation-sensitive electronic device or plate. Images are displayed on a computer work station, and can, for example, be digitally magnified. Digital breast tomosynthesis also uses an electronic image receptor and a computer work station, and obtains multiple images at different angles around the breast, then uses a computer to reconstruct a series of parallel images that resemble slices through the breast.

Mammography can help detect breast cancer in its earliest, most treatable stages, when it is too small to be felt or detected by any other method (Ref. 5).

However, as noted by the Government Accountability Office (GAO), a mammogram is among the most difficult radiographic images to interpret (Ref. 6). The mammogram must be of high quality for accurate image interpretation. If the image quality is poor, the interpreter may miss a cancerous lesion. Such a false negative diagnosis could delay treatment and result in an avoidable death or increased morbidity. It is equally true that poor quality images or inaccurate interpretations can lead to a false positive diagnosis when normal tissue is misinterpreted as abnormal. This could lead to needless anxiety for the patient, costly additional testing, and unnecessary biopsies.

A. FDA's Current Regulatory Framework for Mammography

The MQSA was enacted on October 27, 1992. The passage of the MQSA came after the Senate Committee on Labor and Human Resources held hearings on breast cancer and found a wide range of problems with mammography practice in the United States, including poor quality equipment, a lack of quality assurance (QA) procedures, poorly trained radiologic technologists and interpreting physicians, and a lack of facility inspections and consistent governmental oversight (Refs. 7 and 8). Under the MQSA, a comprehensive statutory scheme for the certification and inspection of mammography facilities was established to ensure that only those facilities that comply with Federal standards of safety and quality could continue to operate after October 1, 1994. Operation after that date is contingent on receipt of an FDA certificate attesting that the facility meets the mammography quality standards. All mammography facilities are subject to the MQSA, except for those under the jurisdiction of the VA. All covered facilities have to meet baseline standards in the areas of radiation dose, equipment, and personnel, and other general practices, such as quality control and quality assurance, are required to be accredited by an approved accreditation body and certified by the Secretary of Health and Human Services (the Secretary) (42 U.S.C. 263b(b)(1) and (d)(1)(A)(iv)). Facilities must also undergo annual inspections to ensure compliance with the MQSA requirements (42 U.S.C 263b(g)(1)). The MQSA also provides for oversight and enforcement to help to ensure that mammography services meet these Federal quality standards (42 U.S.C. 263b(h), (i), and (j)).

The Mammography Quality Standards Reauthorization Acts of 1998 and 2004 (MQSRA) (Pub. L. 105–248 and 108–365) amended the MQSA by, among other things, enhancing patient notification concerning health risks and clarifying the types of certificates that could be issued under the MQSA.

Specifically, the MQSA requires the following:

1. Accreditation of mammography facilities by private, nonprofit organizations or State agencies that have been approved by FDA as meeting the standards established by FDA for accreditation bodies and that continue to pass annual FDA reviews of their activities (see 42 U.S.C. 263b(e)(1) and (3)). The MQSA also requires that, as part of the overall accreditation process, actual clinical mammograms from each facility be evaluated for quality by the accreditation body (see 42 U.S.C. 263b(e)(1)(B)(i)).
2. An annual mammography facility physics survey, consultation, and evaluation performed by a qualified medical physicist (see 42 U.S.C. 263b(e)(1)(B)(iv)).
3. Annual inspection of mammography facilities, to be performed by FDA-certified Federal or State inspectors (see 42 U.S.C. 263b(g)(1)(E)). If State inspectors are used, the MQSA requires a Federal audit of the State inspection program by direct Federal inspections of a sample of State-inspected facilities (see 42 U.S.C. 263b(g)(3)).
4. Establishment of initial and continuing qualification standards for interpreting physicians, radiologic technologists, medical physicists, and mammography facility inspectors (see 42 U.S.C. 263b(f)(1)(C)–(E) and (g)(1)(D)).
5. Specification of boards or organizations eligible to certify the adequacy of training and experience of mammography personnel (see 42 U.S.C. 263b(f)(2)).
6. Establishment of quality standards for mammography equipment and practices, including QA and quality control programs (see 42 U.S.C. 263b(f)(1)(A)).
7. Standards governing recordkeeping for patient files and requirements for mammography reporting and patient notification by physicians (see 42 U.S.C. 263b(f)(1)(G)).
8. Establishment of the National Mammography Quality Assurance Advisory Committee (NMQAAC or Committee) (see 42 U.S.C. 263b(n)(1)). Among other things, NMQAAC is required to advise FDA on appropriate quality standards for mammography facilities and accreditation bodies (see 42 U.S.C. 263b(n)(3)).

B. History of FDA's Mammography Regulations (21 CFR Part 900)

FDA published interim mammography regulations on December 21, 1993 (58 FR 67558 and 58 FR 67565; see also 59 FR 49808). These interim regulations established requirements for entities applying to serve as accreditation bodies and for facilities applying to obtain FDA certification to provide mammography services after October 1, 1994. FDA published comprehensive mammography quality standards in a final rule published on October 28, 1997 (62 FR 55852). Most of

these regulations became effective on April 28, 1999; the remainder became effective on October 28, 2002. FDA also published a final rule on the MQSA and State certification agencies on February 6, 2002 (67 FR 5446).

C. Need for New and Amended Regulations

Most of the requirements in our mammography regulations are over 20 years old. As described below, major developments in understanding relating to the importance of certain breast anatomy on breast cancer risk have occurred and FDA believes these developments should be reflected in our nationwide standard. In addition, we are proposing to update our mammography regulations in response to several gaps that we have identified as we have implemented the current regulations. For example, FDA is proposing to require that both the mammography report and lay summary include basic mammography facility identification information. Technology has also advanced since the regulations were promulgated, so the proposed regulations would make changes to reflect current mammography best practices and technologies.

1. Additional Information in Mammography Reporting: Breast Density

Breast density refers to the proportion of fibroglandular tissue in the breast, as seen on a mammogram. Mammograms of breasts with higher density are harder to interpret than those of less dense breasts, because the dense tissue can obscure cancers (Ref. 9). In 2005, the Institute of Medicine (IOM) noted that breast density is a characteristic of some patients that affects the quality of mammographic interpretation (Ref. 10). In addition, since the publication of the current MQSA regulations, peer reviewed scientific research has confirmed that dense breast tissue is one of the factors that increases the chances that a woman will develop breast cancer (Refs. 11 to 15). The CDC accordingly lists dense breast tissue as one of the risk factors for breast cancer (Ref. 16). Because dense breast tissue can obscure small cancers and is also a risk factor for breast cancer, some women with dense breasts may choose, after consulting with their healthcare provider, to undergo additional screening. Additional screening of women with dense breasts can detect some additional cancers and reduce delays in treatment (Refs. 17 to 19).

On November 4, 2011, FDA convened an open public meeting of the NMQAAC to consider possible changes to the MQSA regulations. At the meeting, FDA sought input from the Committee on the potential inclusion of breast tissue density information in facility mammography reports. The Committee advised that FDA require breast density reporting in mammography reports provided to healthcare providers as well as in lay-language summaries provided to patients (Ref. 20).

The MQSA and current regulations require a mammography facility to provide a written report on each mammographic examination to the patient's healthcare provider (see 42 U.S.C. 263b(f)(1)(G)(ii)(II); § 900.12(c)(3) (21 CFR 900.12(c)(3)). The mammography facility is also required to provide a summary of the report in lay language to the patient (see 42 U.S.C. 263b(f)(1)(G)(ii)(IV); § 900.12(c)(2)). Current regulations do not require that a notification of breast density be part of the report provided to the healthcare provider or the lay summary provided to the patient. However, there is increasing interest in breast density reporting, and States are taking action. Between 2009 and May 2018, 34 States have passed laws mandating notification of breast density (Ref. 21). These State laws impose requirements that vary from State to State. To ensure all women receive consistent breast density information from their mammograms, FDA is proposing to amend the mammography reporting requirements in § 900.12(c) to require that the written report of the results of the mammographic examination provided to the healthcare provider and the lay summary of the results provided to the patient also include information concerning patient breast density.

2. Classifications of Mammography Assessment

Additionally, the current categories do not account for some important clinical and mammographic scenarios, which could lead to confusing communication between interpreting physicians and referring healthcare providers, and may also lessen the usefulness of the required medical outcomes audit if these cases are incorrectly classified. Classification of the assessment of the mammogram is part of the information that a mammography facility currently is required to include in the mammography report (see § 900.12(c)(1)(iv)). Mammography facilities classify their findings regarding a mammogram using the following assessment categories: Negative, benign, probably benign, suspicious, and highly suggestive of malignancy (see § 900.12(c)(1)(iv)(A)–(E)), or the assessment ''incomplete: need additional imaging evaluation'' (see § 900.12(c)(1)(v)). FDA is proposing to add to the current categories two new categories of final assessment (known biopsy proven malignancy and post-procedure mammograms for marker placement), and one new assessment category of incomplete (need prior mammograms for comparison). The addition of these categories would allow the mammography facility to more precisely classify its findings (see section V.E.3 of this proposed rule and proposed § 900.12(c)(1)). In September 2006, the NMQAAC recommended adding these categories to the assessment categories used in the referring healthcare provider report (Ref. 22).

IV. Legal Authority

The MQSA (Pub. L. 102–539) was enacted on October 27, 1992, and is codified at 42 U.S.C. 263b (section 354 of the PHS Act). Under the MQSA, all mammography facilities, except facilities of the VA, must be accredited by an approved accreditation body and certified by FDA (or an approved State certification agency) to provide mammography services (42 U.S.C. 263b(b)(1) and (d)(1)(iv)). FDA is proposing these amendments to the mammography regulations (set forth in part 900) under section 354 of the PHS Act (42 U.S.C. 263b), and sections 519, 537, and 704(e) of the FD&C Act (21 U.S.C. 360i, 360nn, and 374(e)).

V. Description of the Proposed Rule

A. Definitions of Mammography and Mammographic Modality

FDA is proposing to amend the definition of ''mammography'' to exclude computed tomography (CT) of the breast as the requirements in part 900 relating to mammography personnel qualifications and image quality are not applicable to breast CT (§ 900.2(aa)). FDA is also proposing to amend the definition of ''mammographic modality'' to replace ''xeromammography'' as an example of a modality with ''full field digital mammography,'' as the former is an obsolete technology (see § 900.2(z)).

B. Repeated Failure of Accreditation

FDA is proposing to add a new subsection to the code of conduct and general responsibilities requirements for accreditation bodies, which would prohibit an accreditation body from accepting an application for accreditation from a facility that has failed to become accredited after three

consecutive attempts until 1 year after the most recent failed attempt (proposed § 900.4(a)(6)(ii)).

Upon receipt of an accreditation body's decision that a facility has submitted the necessary information, FDA may issue a provisional certificate to the facility so that it can perform mammography and obtain clinical images for the purposes of ultimately meeting the requirements necessary for accreditation (and later certification). FDA's experience with MQSA program administration has shown that some facilities repeatedly receive a provisional certificate—and continue to perform mammography—but repeatedly resubmit and fail to achieve accreditation. This new subsection would prohibit an accreditation body from accepting an application for accreditation from a facility that has failed to become accredited after three consecutive attempts until 1 year after the most recent accreditation failure (proposed § 900.4(a)(6)(ii)). This would help to ensure that facilities that have repeatedly failed to meet the required quality standards will not continue to offer mammography services while in an unaccredited and provisionally certified status. FDA believes that three consecutive failures signify that a facility is not capable of performing mammography that meets the required quality standards.

C. Retention and Provision of Personnel Records

Mammography personnel in all categories (interpreting physicians, radiologic technologists, and medical physicists) may work in more than one mammography facility. Each facility is required to maintain records of the training and experience supporting the qualification of each of its personnel (see § 900.12(a)(4)). If a facility worker loses his or her personal copy of these records, he or she may attempt to obtain copies from a facility where he or she works. Experience with MQSA program administration has shown that facilities have refused reasonable requests by personnel for copies of these records. When personnel cannot obtain copies of their records to document their qualifications, they may not be able to work at additional or new facilities, which can lead to reduced public access to mammography services. FDA is proposing to amend the retention of personnel records section to require that facilities provide copies of these records to personnel upon their reasonable request (proposed § 900.12(a)(4)). It would further require that facilities that close or cease to provide mammography services make arrangements for access by personnel to these records.

D. Equipment and Quality Control

The proposed rule would amend parts of the equipment section to address digital mammography and other changes in technology that have occurred since publication of the current regulations (§ 900.12(b)).

1. Digital Accessories and Unit Conversion

FDA is proposing to add a new provision that would require that facilities use only digital accessory components that were either approved or cleared by FDA specifically for mammography or approved or cleared by FDA for a use that could include mammography and that have the same equipment specifications as those approved or cleared for mammography (§ 900.12(b)(2)). All equipment must be designed for mammography. The mechanism by which it is known that equipment is designed for mammography is that it was approved or cleared by FDA for that use. This proposal clarifies that this is applicable to all equipment, including things such as monitors. This change would ensure that only those components appropriate for mammography would be used clinically.

The proposed rule would also add a provision establishing that a mammography unit that is converted from one mammographic modality to another is considered a new unit at the facility under this part and, prior to clinical use, must undergo a mammography equipment evaluation demonstrating compliance with applicable requirements. The facility would also have to follow its accreditation body's procedures for applying for accreditation of that unit.

2. X-Ray Film/Printer Film

FDA is proposing to rename ''X-Ray film'' to ''Film'' and insert the phrase ''For facilities using screen-film units'' regarding the use of x-ray film (§ 900.12(b)(11)). The revised section also would contain an additional provision that would require that facilities using hardcopy prints of digital images for transfer, retention, or final interpretation purposes use a type of printer film designated by the film manufacturer as appropriate for this purpose and compatible with the printer being used to maintain image quality.

3. Quality Assurance Testing for Equipment Other Than Screen-Film

To ensure compliance with image quality standards, FDA is proposing to amend the equipment section to add a new paragraph for equipment of other modalities (proposed § 900.12(b)(16)) that would require that systems with image receptor modalities other than screen-film demonstrate compliance with quality standards by successful results of QA testing as specified in the section for quality control testing—other modalities (§ 900.12(e)(6)).

E. Mammography Reporting

FDA also is proposing to amend section ''Medical records and mammography reports'' (§ 900.12(c)). The proposed rule would amend the mammography reporting requirements as described below (see § 900.12(c)). Our goal is to revise the mammography reporting regulations to increase the clarity of communication among mammography facilities, healthcare providers, and patients, facilitate the retrieval of mammography images, and help ensure that healthcare providers and patients are obtaining the necessary information from the report of the results of a mammographic examination to enable a woman and her healthcare provider to make informed healthcare decisions.

1. Contents and Terminology

Image quality contributes to accurate interpretation of mammograms. The MQSA and implementing regulations are intended to ensure that quality images are produced. However, FDA's experience has shown that some facilities copy or digitize clinical images, and submit these copies, of lesser quality than the original images, to the interpreting physician for interpretation. This can adversely affect accuracy of interpretation. Therefore, to ensure that the interpreting physician interprets the actual images, which were performed in compliance with MQSA quality standards, FDA is proposing to change this section on content and terminology of medical records and mammography reports to require that the mammograms submitted for interpretation be presented in the mammographic modality in which they were originally produced, and not be copied or digitized (§ 900.12(c)(1)).

2. Facility Identification and Other Information

The existing section on content and terminology requires that a mammography facility prepare a written report of each mammographic examination performed under its certificate (§ 900.12(c)(1)). The proposed rule would add a requirement that the report include the facility name and location (at a minimum, the city, State,

and ZIP code of the facility) (proposed § 900.12(c)(1)(ii)). This proposed addition would help to ensure that healthcare providers know which facility is providing the report of the results of a mammographic examination so they can follow up with the reporting facility as necessary in order to assist their patients in making informed healthcare decisions.

The existing section on communication of mammography results to the patients requires that the facility provide each patient with a summary of the report in lay language within 30 calendar days of the mammographic examination (§ 900.12(c)(2)). The proposed rule would revise this subsection to require that the lay summary include the name of the patient, and the name, address, and telephone number of the facility performing the mammographic examination. This proposed addition would help to ensure that appropriate mammography facility identification information is included in the lay summary sent to the patient. Experience has shown that inadequate facility identification information in mammography reports and lay summaries can impede communication among healthcare providers and patients and hamper the timely provision of medical care.

3. Mammographic Assessment Categories

Mammography facilities classify their findings regarding a mammogram using the categories listed in current categories for final assessment of findings (§ 900.12(c)(1)(iv)), and they report that classification in the written report of the results of each mammography examination sent to the healthcare provider. For each final assessment category in the current regulations, the words in quotation marks are required to be included in the medical report, while the remaining language is intended to provide explanations of the categories to promote their consistent use but is not required to be included in the medical report.

FDA is proposing to change the explanatory language associated with the ''benign'' assessment category to more accurately reflect and communicate the intent of this category (§ 900.12(c)(1)(iv)(B)). Currently the prescribed wording associated with this assessment is '' 'Benign:' Also a negative assessment.'' FDA is proposing to change the wording of this category to '' 'Benign:' Also a normal assessment, with benign findings present, but no evidence of malignancy (if the interpreting physician is aware of clinical findings or symptoms, despite the benign assessment, these shall be explained).'' The mammogram assigned this category is not truly ''negative,'' as it has one or more findings. However, these findings are benign, and no further evaluation or follow up is recommended. This change would promote greater consistency and accuracy in the use of the ''benign'' final assessment category.

These proposed changes to the reporting requirements would add three new categories (listed below) of mammographic assessment to the existing categories in the regulations (proposed § 900.12(c)(1)(iv) through (c)(1)(vi)). The addition of these categories would allow the mammography facility to more precisely classify its findings.

One proposed new category is '' 'Known Biopsy Proven Malignancy.' Reserved for known malignancies being evaluated by mammography for definitive therapy'' (see proposed § 900.12(c)(1)(iv)(F)). The addition of this final assessment was recommended in the IOM report of 2005 (Ref. 10), which was commissioned by Congress to address concerns about the quality of mammography image interpretation. This recommendation was also supported by the NMQAAC in 2006 (Ref. 22). This assessment would be used when breast imaging is performed after a tissue diagnosis of cancer, but before complete surgical removal of the cancer. The category would alert providers who receive the report that the mammographic finding has already received additional evaluation, including tissue diagnosis, and is not a new finding that requires further evaluation. Additionally, the category would be relevant to the mammography medical outcomes audit, which is required under the MQSA regulations (see § 900.12(f)). For this required audit, each facility must have a system to track a mammogram that is found to be either ''suspicious'' or ''highly suggestive of malignancy'' and a process to correlate the mammographic findings with biopsy results. The ''Known Biopsy Proven Malignancy'' final assessment could be used to exclude such cases from the mammography medical outcomes audit, in order to avoid counting the same cancer case more than once in an audit. FDA determined that this proposed category could be used as an alternative quality standard (see § 900.18) (Ref. 23).

The second proposed new category is ''Post-Procedure Mammograms for Marker Placement'' (proposed § 900.12(c)(1)(iv)(G)). The addition of this final assessment category was also supported by the NMQAAC in 2006 (Ref. 20). This category has two roles in current clinical practice. It is primarily used for a mammogram performed following a biopsy to confirm the deployment and position of a breast tissue marker. During a biopsy using a needle to withdraw tissue from a suspicious breast lesion, a marker may be placed at the site, and mammographic images are obtained to assess and document the position of the marker. If this mammogram demonstrates that the marker has not deployed or has migrated, placement of another marker may be necessary before concluding the procedure. Also, if the tissue biopsy result, when it becomes available, shows cancer and further surgery is necessary, the marker identifies the site for further surgical planning. The breast abnormality has already been found to be mammographically suspicious and warranting biopsy, and it will be definitively diagnosed by the tissue biopsy result when available, so this post-procedure mammogram does not contribute to lesion characterization, and other final assessments are not appropriate for this mammogram. The other use of this final assessment category is for a mammogram performed to document the position of a localization needle. During needle localization, a needle is positioned as a temporary marker to direct subsequent surgery for a nonpalpable lesion seen on earlier mammography. The post-procedure mammogram is performed as a guide to identify the suspicious site for the surgeon who will biopsy or excise the lesion and remove the marker needle. FDA determined that this proposed category could be used as an alternative quality standard (see § 900.18) (Ref. 24).

FDA proposes to add a third new category, ''Incomplete: Need prior mammograms for comparison,'' for those examinations where no final assessment category can be assigned (proposed § 900.12(c)(1)(v)(B)). This assessment category would be reserved for examinations where comparison with prior mammograms should be performed before one of the other assessment categories is given. If this assessment category is used, a follow up report with one of the other assessment categories must be issued within 30 calendar days of the initial report whether or not comparison views can be obtained. The addition of this assessment category was also supported by the NMQAAC in 2006 (Ref. 22). Comparison to previous examinations is sometimes required to make a final

assessment. Assigning this ''Incomplete: need prior mammograms'' assessment as an assessment category would allow tracking of these examinations to ensure either that prior examinations are obtained and compared in a timely fashion, or, if they remain unavailable, that the current examination is given a definitive final assessment in a timely fashion. This proposed category is part of an assessment that FDA determined could be used as an alternative quality standard (see § 900.18) (Ref. 23).

4. Deadlines for Provision of Lay Summary to Patient and Report to Provider

Current regulations require that if the final assessment in a mammography report is ''Suspicious'' or ''Highly suggestive of malignancy,'' the facility should make reasonable attempts to ensure that the results are communicated to the patient and healthcare provider as soon as possible (§ 900.12(c)(2) and (c)(3)(ii)). FDA proposes adding a specific timeframe for delivery of medical reports to healthcare providers and the summary written in lay language to patients whose mammograms have either of these two final assessment categories.

The proposed rule would amend communication of mammography results to patients and healthcare providers to require that, if the assessment of the mammography report is ''Suspicious'' or ''Highly suggestive of malignancy,'' the facility must communicate the results to the referring healthcare provider or a healthcare provider named by the patient, within 7 calendar days of the final interpretation of the mammographic examination but in no case later than 14 calendar days from the date of the mammographic examination, and to the patient in the summary written in lay language, within 7 calendar days of the final interpretation of the mammographic examination but in no case later than 21 calendar days from the date of the mammographic examination (§ 900.12(c)(2) and (c)(3)). FDA would require such action by the facility for these two final assessment categories because they both suggest a high possibility of malignancy. We believe that specifying a timeframe for communicating these results, instead of the open-ended ''as soon as possible,'' which is currently required, could lead to earlier definitive tissue diagnosis of malignancy and earlier start of treatment, and avoid, for the patient, the anxiety of a protracted waiting period.

5. Breast Density Notification

Clinical practice guidelines already recommend that the interpreting physician provide breast density information in the mammography report to the referring healthcare provider (Ref. 25). Moreover, as of May 2018, facilities in 34 States are also required by State law to provide breast density information to patients (Ref. 21). Proposed § 900.12(c)(1)(vi) would require that the patient's breast density be included in the mammography report that must be provided to the patient's referring or named healthcare provider. Proposed § 900.12(c)(1)(vi) would establish four categories for reporting breast tissue density in the mammography report: ''The breasts are almost entirely fatty.'', ''There are scattered areas of fibroglandular density.'', ''The breasts are heterogeneously dense, which may obscure small masses.'', and ''The breasts are extremely dense, which lowers the sensitivity of mammography.'' These four categories are consistent with current clinical practice guidelines (Ref. 25).

Based on discussion with the NMQAAC in 2011 (Ref. 20), and consistent with current clinical practice (Ref. 26) as well as most State density notification laws (Ref. 27), for notification to patients, FDA has grouped these four categories of breast density into two broader groups: Low density and high density. Proposed § 900.12(c)(2)(iii) and (c)(2)(iv) would require that the lay summary provided to patients identify whether the patient has low or high density breasts and include a prescribed paragraph on the significance of breast density.

FDA developed two patient density paragraphs, one intended for patients with low breast density and one for patients with high breast density with input from FDA's Risk Communication Advisory Committee. The paragraphs contain an explanation of high breast tissue density, as well as specific topics for women to discuss with their healthcare providers.

The purpose of these proposed breast density notification requirements is to provide women and their healthcare providers with additional information regarding their mammography results and the potential limitations of those results to enable women and their healthcare providers to make informed healthcare decisions. As discussed previously, dense breast tissue increases the risk of developing breast cancer (Refs. 11 to 13). Dense breast tissue can also obscure mammographic signs of breast cancer and thus result in a delayed cancer diagnosis (Ref. 9). Women with dense breasts who receive the notification would have additional information about their own anatomy and be positioned to discuss this and make more informed healthcare choices with their healthcare providers. With knowledge of their breast density, some women may choose additional screening using technology approved by FDA, either with indications for use specifically for dense breasts, or known to be effective for evaluating dense breasts, which could result in additional cancers detected and reduce delays in treatment. For example, a device for automated breast ultrasound has been FDA-approved for use in combination with a screening mammogram for additional breast cancer screening in women with dense breasts and a negative mammogram. One study showed that supplemental ultrasound screening in high-risk women with dense breasts resulted in the detection of 1.1 to 7.2 additional cancers per 1,000 women (Ref. 19). The detection of additional cancers has to be weighed against any increase in false positive results (Ref. 28).

6. Mammography Self-Referrals

Current § 900.12(c)(2)(ii) requires that ''Each facility that accepts patients who do not have a healthcare provider shall maintain a system for referring such patients to a healthcare provider when clinically indicated,'' *i.e.,* when necessitated by the presence of signs or symptoms of disease. However, many cases of breast cancer are identified due to an abnormality on a mammogram, in the absence of any clinical signs or symptoms. Proposed § 900.12(c)(2)(ii) adds the term ''mammographically'' as another indication for which facilities must maintain a system for referral to a healthcare provider. This addition would help to ensure that patients without healthcare providers and receiving mammographic examinations from a mammography facility are referred to healthcare providers when mammographically appropriate, *i.e.,* when appropriate based on the results of the mammogram, as well as when clinically appropriate.

F. Recordkeeping

1. Policies To Minimize Loss of Records

Current § 900.12(c)(4)(i) requires facilities to maintain mammography films and reports in a permanent medical record of the patient for a period of not less than 5 years, or not less than 10 years if no additional mammograms of the patient are performed at the facility, or a longer

period if mandated by State or local law. FDA's experience has shown that, with the widespread use of electronic media for the storage of soft copy images, facilities face new technical challenges regarding maintaining the availability of current and recent mammograms. Since the loss of these images can have a significant impact on patient care, facilities must address these challenges. The proposed rule (proposed § 900.12(c)(4)(i)) would amend this section to require each facility to implement policies and procedures to minimize the possibility of loss of these records. In addition, since copying or digitizing a mammographic image can degrade the quality of the image and potentially lead to incorrect diagnoses, the proposed rule would also require that, to preserve image quality, the mammograms must be retained in retrievable form in the mammographic modality in which they were produced and cannot be produced by copying or digitizing hardcopy originals.

2. Transfer of Mammograms and Mammography Reports

Current § 900.12(c)(4)(ii) requires facilities, upon request by, or on behalf of, the patient, to permanently or temporarily transfer the original mammograms and copies of the patient's reports to a medical institution, a physician or healthcare provider of the patient, or to the patient directly. Since delays in the transfer of these records can lead to delays in diagnosis or treatment, the FDA's proposed rule (proposed § 900.12(c)(4)(ii)) would amend this section to require facilities to release records within 15 calendar days of the facility receiving the transfer request in order to facilitate prompt patient care. Also, copying or digitizing a mammographic image can degrade the quality of the image and potentially lead to incorrect diagnoses. Therefore, to preserve image quality, the proposed rule would also require that the transferred mammograms be in the mammographic modality in which they were produced, and cannot be produced by copying or digitizing hardcopy originals. Additionally, for digital mammograms or digital breast tomosynthesis, if the examination is being transferred for final interpretation purposes, the facility must be able to provide the recipient with original digital images electronically.

3. Provision of Copies of Mammograms and Mammography Reports

With the widespread use of digital mammography, facilities often retain the original mammogram even when releasing a copy upon the patient's request. Delays in release of these copies can lead to delays in diagnosis or treatment, so FDA is proposing to add § 900.12(c)(4)(iii), which would require that each facility that performs mammograms, upon request by, or on behalf of, the patient, provide copies of mammograms and copies of mammogram reports to a medical institution, a physician or healthcare provider of the patient, or to the patient directly, and that the release of the copies must take place within 15 calendar days of the facility receiving such a request in order to facilitate prompt patient care.

4. Facility Closure and Record Access

FDA is proposing to add § 900.12(c)(4)(v), which would provide that, before a facility closes or no longer provides mammography services, it must make arrangements for the continued access by patients and healthcare providers to mammograms and reports. This access may be provided by the permanent transfer of mammograms and reports to the patient or her healthcare provider or transfer of the mammograms and reports to a facility or other entity that will continue to provide access to patients and healthcare providers within the time periods specified in § 900.12(c)(4)(i). The facility must notify its accreditation body and certifying agency in writing of the arrangements it has made and must make reasonable efforts to notify all affected patients as to how to obtain their records.

G. Mammography Medical Outcomes Audit

As part of recordkeeping requirements, the existing MQSA regulations, § 900.12(f), require facilities to perform an audit of medical outcomes of its mammography patients, but do not specify the information to be collected or evaluated during this audit. Recently, the clinical practice community recognized that specific audit metrics are particularly relevant to continuous quality improvement at mammography facilities (Refs. 29 and 30).

Based on this industry best practice, FDA is proposing to clarify the minimum required components of the medical outcomes audit, including the calculation of three clinically significant metrics known as positive predictive value, cancer detection rate, and recall rate (see proposed § 900.12(f)(1)). The latter two metrics incorporate the accepted clinical distinction between a screening mammogram (consisting of routine views for the earlier detection of cancer in an asymptomatic woman) and a diagnostic mammogram (consisting of individualized views for the evaluation of a woman with breast symptoms, physical signs of breast disease, or abnormal findings on a screening mammogram) (Ref. 31). Calculating and tracking these three audit metrics would allow facilities and interpreting physicians to review their performance, evaluate their accuracy in detecting breast cancer, and enact quality improvement measures as necessary. As a result, FDA is proposing to revise § 900.12(f)(1) and add subparagraphs § 900.12(f)(1)(i) through (f)(1)(iii) to clarify the minimum information that must be collected during the audit, including a determination of three of the most clinically significant metrics: Positive predictive value, cancer detection rate, and recall rate.

H. Additional Mammography Review and Patient and Referring Physician Notification

Existing § 900.12(j) addresses AMR and PPN. It sets forth the AMR procedures, whereby FDA may require the facility to provide clinical images and other relevant information to the accreditation body or other entity designated by FDA if FDA believes that mammography quality at the facility has been compromised and may present a serious risk to human health (§ 900.12(j)(1)). If FDA determines that the quality of mammography performed by a facility was so inconsistent with the quality standard established in § 900.12 as to present a significant risk to individual or public health, FDA may require such facility to issue a PPN to notify patients who received mammography at such facility and their referring physicians of the deficiencies and resulting potential harm, appropriate remedial measures, and other relevant information (§ 900.12(j)(2)).

Proposed revised § 900.12(j)(1) adds the State certification agency as an entity that may initiate an AMR. Proposed revised § 900.12(j)(2) would require that referring non-physician healthcare providers receive notification along with referring physicians (many patients are referred for mammography by non-physician healthcare providers), and expressly state that FDA and the State certification agency can notify patients and their providers individually or through the mass media when a facility is unable or unwilling to perform the required notification. This proposed subsection also would make clear that a PPN could be based on information discovered during the AMR or it could be based on other information. These proposals would

help to assure that quality mammography services are provided and that patients and providers are informed of significant risk to individual or public health resulting from mammography that fails to meet quality standards.

I. Additional Bases for Suspension or Revocation of a Certificate, and Ineligibility To Own or Operate After Revocation

Revisions to § 900.14(a)(3) would expressly state that FDA and State certification agencies can suspend or revoke the certificate of a facility that fails to comply with reasonable requests by FDA, the State certification agency, or the accreditation body for records, including clinical images for an AMR under § 900.12(j). Experience with MQSA program administration has shown that some facilities are unable or unwilling to cooperate with submissions for such requested materials. The refusal to provide records can delay identification of serious risks to human health or delay notification of significant risk to individual or public health to affected patients and their healthcare providers.

In addition, proposed § 900.14(a)(7) would state that FDA may suspend or revoke the certificate of a facility that fails to comply with reasonable requests by current or former facility personnel for records documenting their qualifications. Experience with MQSA program administration has also shown that facilities have refused reasonable requests to give copies of their records to the personnel named in the records. When personnel cannot obtain copies of their records to document their qualifications under MQSA, they may be prevented from working at additional or new facilities, which can lead to reduced public access to mammography services.

The MQSA (42 U.S.C. 263b(i)) states that upon the finding of certain acts, such as misrepresentation in obtaining a certificate, failure to comply with quality standard requirements, failure to provide certain information to FDA in response to reasonable requests, failure to permit inspection, violation of any provision of the MQSA or regulation promulgated under the MQSA, and failure to comply with a sanction, a facility's certificate may be revoked. If a facility's certificate is revoked, persons who owned or operated the facility at the time of revocation are ineligible to own or operate a mammography facility for 2 years.

FDA is also revising § 900.11(c) to correct a citation error to the MQSA and make clear that § 900.14(c) implements 42 U.S.C. 263b(i) and not 41 U.S.C. 263b(i).

VI. Proposed Effective Date

FDA proposes that any final rule that may issue based on this proposal become effective 18 months after the date of publication of the final rule in the **Federal Register**. Facilities need time to become familiar with new requirements and to add breast density reporting to their reporting systems.

VII. Preliminary Economic Analysis of Impacts

A. Introduction

FDA has examined the impacts of the proposed rule under Executive Order 12866, Executive Order 13563, Executive Order 13771, the Regulatory Flexibility Act (5 U.S.C. 601–612), and the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). Executive Orders 12866 and 13563 direct us to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). Executive Order 13771 requires that the costs associated with significant new regulations ''shall, to the extent permitted by law, be offset by the elimination of existing costs associated with at least two prior regulations.'' We believe that this proposed rule is a significant regulatory action as defined by Executive Order 12866.

The Regulatory Flexibility Act requires us to analyze regulatory options that would minimize any significant impact of a rule on small entities. Because many facilities that will be affected by this rule are defined as small businesses, we find that the proposed rule will have a significant economic impact on a substantial number of small entities.

The Unfunded Mandates Reform Act of 1995 (section 202(a)) requires us to prepare a written statement, which includes an assessment of anticipated costs and benefits, before proposing ''any rule that includes any Federal mandate that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more (adjusted annually for inflation) in any one year.'' The current threshold after adjustment for inflation is $150 million, using the most current (2017) Implicit Price Deflator for the Gross Domestic Product. This proposed rule would result in an expenditure in any year that meets or exceeds this amount.

B. Summary of Benefits and Costs

The proposed rule would modernize mammography regulations by incorporating current science and mammography best practices to improve the delivery of mammography services. The proposed updates include requirements on recordkeeping, reporting, and communication of results. This proposed rule also addresses procedural requirements in several areas related to quality control and management of mammography facilities.

The benefits and costs associated with this proposed rule are summarized in table 1. The quantified benefits are derived from reduced mortality and breast cancer treatment costs resulting from the breast density reporting requirements. In this analysis, we use two methods of measuring the value of reduced mortality: The value per statistical life (VSL) approach and an approach based on the value of lost quality-adjusted life years (QALY). Under the VSL approach, the estimate of annualized benefits over 10 years ranges from $73.24 million to $466.75 million at a 7 percent discount rate. Using a 3 percent discount rate, the annualized benefits range from $85.33 million to $534.03 million. Under the QALY approach, the estimate of annualized benefits over 10 years ranges from $16.27 million to $77.23 million at a 7 percent discount rate. Using a 3 percent discount rate, the annualized benefits range from $16.27 million to $ 61.77. Because there is uncertainty in the literature about the most appropriate method for analyzing reduced mortality for the population affected by this proposed rule, we do not present a primary value and use estimates from both methods to create the range of values in Table 1. The high estimate in Table 1 is based on the VSL approach, which yields the higher bound estimate of the two methods. The low estimate is based on the QALY approach, which yields the lower bound estimate of the two methods. Other benefits that we are not able to quantify include improvements in the accuracy of mammography by improving quality control and records management, and effects on morbidity.

The costs of the proposed rule include costs to mammography facilities to comply with the proposed requirements and costs associated with supplemental testing and biopsies resulting from the breast density requirements. The estimate of annualized costs over 10 years ranges from $34.96 million to

$60.50 million at a 7 percent discount rate with a primary value of $47.03 million. Using a 3 percent discount rate, the annualized costs range from $33.86 million to $59.40 million with a primary value of $45.92 million. The primary estimate of the present value of costs over 10 years is $330.29 million at a 7 percent discount rate and $391.74 million at a 3 percent discount rate.

TABLE 1—SUMMARY OF BENEFITS AND COSTS IN MILLIONS 2017 DOLLARS OVER A 10-YEAR TIME HORIZON

Category	Primary estimate	Low estimate	High estimate	Units			Notes
				Year dollars	Discount rate (%)	Period covered	
Benefits:							
Annualized		$16.27	$466.75	2017	7%	10 years	
Monetized $/year		16.27	534.03	2017	3	10 years	
Annualized Quantified					7		
					3		
Qualitative	Improvements in the accuracy of mammography and better management of mammography facilities.						
Costs:							
Annualized Monetized $/year	47.03	34.96	60.50	2017	7	10 years	
	45.92	33.86	59.40	2017	3	10 years	
Annualized Quantified					7		
					3		
Qualitative.							
Transfers:							
Federal					7		
Annualized Monetized $/year					3		
From/To	From:			To:			
Other					7		
Annualized Monetized $/year					3		
From/To	From:			To:			

Effects:
State, Local or Tribal Government:
Small Business: Annual cost per affected small entity estimated as 357-623, which would represent a maximum of 2.7 percent of annual receipts
Wages:
Growth:

In line with Executive Order 13771, in table 2 we estimate present and annualized values of costs and cost savings over an infinite time horizon. Based on these costs this proposed rule would be considered a regulatory action under E.O. 13771.

TABLE 2—EO 13771 SUMMARY TABLES IN MILLIONS 2016 DOLLARS OVER AN INFINITE TIME HORIZON

	Primary (7%)	Lower bound (7%)	Upper bound (7%)	Primary (3%)	Lower bound (3%)	Upper bound (3%)
Present Value of Costs	$615.44	$446.14	$804.56	$1,378.67	$983.65	$1,819.96
Present Value of Cost Savings	0	0	0	0	0	0
Present Value of Net Costs	615.44	446.14	804.56	1,378.67	983.65	1,819.96
Annualized Costs	43.08	31.23	56.32	41.36	29.51	54.60
Annualized Cost Savings	0	0	0	0	0	0
Annualized Net Costs	43.08	31.23	56.32	41.36	29.51	54.60

C. Summary of Regulatory Flexibility Analysis

We estimate that there are 4,585 non-hospital facilities and 4,106 hospitals that perform mammography. A minimum of 3,865 of the mammography facilities in operation for the entire year, or 95 percent of the total, would be small. At least 382 of all hospitals with less than $10 million in annual receipts, or 9 percent of the total, are small. The estimated one-time cost is $4,100 to $6,474 per facility. The estimated annual cost is $357 to $623 per facility. One-time costs are 26.7 percent of receipts and annual costs are 4.1 percent of receipts for the smallest diagnostic imaging centers. Based on this, we conclude that the proposed rule, if finalized, would have a significant impact on a substantial number of small entities. The proposed regulation would have smaller effects on hospitals because they provide more diversified services and tend to be larger. We have developed a comprehensive Economic Analysis of Impacts that assesses the impacts of the proposed rule.

The full analysis of economic impacts is available in the docket for this proposed rule (Ref. 32) and at *https://www.fda.gov/AboutFDA/ReportsManualsForms/Reports/EconomicAnalyses/default.htm.* We solicit comment about the analysis of economic impacts.

VIII. Analysis of Environmental Impact

The Agency has determined under 21 CFR 25.30(h) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore,

neither an environmental assessment nor an environmental impact statement is required.

IX. Paperwork Reduction Act of 1995

This proposed rule refers to previously approved collections of information that are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520). The collections of information in part 900 have been approved under OMB control number 0910–0309. The proposed amendments to part 900 in this document necessitate revisions to OMB control number 0910–0309. A description of the proposed amendments that necessitate revisions to the annual third-party disclosure burden is given in the *Description* section below. Included in the estimate is the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing each 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 information collection provisions that are subject to review 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.

Title: Mammography Facilities, Standards, and Lay Summaries for Patients.

Description: FDA is proposing to amend its mammography reporting requirements to require that the mammography report provided to the healthcare provider and the lay summary report provided to the patient include basic mammography facility identification information and information concerning patient breast density. This action is intended to facilitate communication between mammography facilities, healthcare providers, and patients; facilitate the retrieval of mammography images; and help ensure that healthcare providers and patients obtain the necessary information from the mammography facility to enable a woman and her healthcare provider to make informed healthcare decisions. FDA also is proposing additional categories be added to the list of assessments that facilities are required to use in the mammography report. In addition, FDA is proposing to amend its requirements related to the transfer and provision of mammography records, the transfer and provision of personnel records upon request or facility closure, and FDA notification and mammographic records access upon facility closure.

Description of Respondents: Respondents to this information collection are facilities that provide mammographic examinations and State certification.

Agencies: As of May 1, 2018, FDA internal data on facilities showed that there were 8,691 facilities certified to perform mammography. In addition to mammography-performing facilities, the regulation would also affect four State certification agencies (Ref. 33).

FDA estimates the burden of this collection of information as follows:

TABLE 3—ESTIMATED ANNUAL THIRD-PARTY DISCLOSURE BURDEN [1]

Activity/21 CFR section	Number of respondents	Number of disclosures per respondent	Total annual disclosures	Average burden per disclosure	Total hours [2]
Provision of personnel records—900.12(a)(4)	608	1	608	0.08 (5 minutes)	49
Transfer of personnel records by closing facilities—900.12(a)(4).	87	1	87	5	435
New assessment categories and breast density reporting in mammography report (one-time burden)—900.12(c)(1)(iv)–(c)(1)(vi).	8,691	1	8,691	23	199,893
Breast density reporting in lay summary (one-time burden)—900.12(c)(2).	8,691	1	8,691	11	95,601
Transfer/provision of copies of mammograms and records upon patient's request—900.12(c)(4)(ii) and (c)(4)(iii).	8,691	1,508	13,109,566	0.08 (5 minutes)	1,048,765
Facility closure; notification and records access—900.12(c)(4)(v).	87	1	87	32	2,784
Patient notification of significant risk (by State certification agency)—900.12(j)(2).	5	1	5	100	500
Total					1,348,027

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.
[2] Columns may not sum due to rounding.

Personnel records—§ 900.12(a)(4): Under § 900.12(a)(4), facilities are required to maintain records of training and experience regarding personnel who work or have worked at the facility as interpreting physicians, radiologic technologists, or medical physicists. Facilities must maintain records of personnel no longer employed by the facility at least until the next annual inspection and until FDA has determined that the facility is in compliance with the MQSA personnel requirements. FDA is not proposing any changes to these requirements. The information collection (recordkeeping) burden for this provision is currently approved under OMB control number 0910–0309.

Also under proposed § 900.12(a)(4), facilities would have to provide copies of personnel records to current or former interpreting personnel (physician, radiological technologist and medical physicist) upon their reasonable request. We estimate that there are, on average, seven interpreting personnel per facility (approximately 60,837 total). We estimate that 1 percent

of these personnel (608 personnel annually) would request the records and that it would take approximately 5 minutes to provide the copies for each request.

Additionally, under proposed § 900.12(a)(4), before a facility closes or ceases to provide mammography services, it would have to make arrangements for personnel to access their MQSA personnel records. This access may be provided by the permanent transfer of these records to the personnel or the transfer of the records to a facility or other entity that would provide access to these records. We estimate that annually 1 percent of the total facilities would close or cease to provide mammography services and that it would take each of the facilities approximately 5 hours to transfer the records.

Medical records and mammography reports—§ 900.12(c)(1) through (c)(4): Section 900.12(c)(1), *Contents and terminology,* sets forth the requirement for facilities to prepare a written report of the results of each mammographic examination performed under its certificate. Section 900.12(c)(1) requires that the report include patient identifying information, date of examination, facility name and location, the final assessment of findings (or classification as to why no final assessment can be made), name of the interpreting physician, and recommendations to the healthcare provider.

This proposed rule would include two additional final assessment categories and an additional classification in the mammography report and would also require an assessment of breast density in the report (proposed § 900.12(c)(1)(iv) through (c)(1)(vi)). We estimate a one-time burden for facilities to update their existing mammography reports with these new categories. Based on the Eastern Research Group (ERG), Inc.'s report, we believe this would take 23 hours per facility (Ref. 34).

Under the proposed rule, if the final assessment is ''Suspicious'' or ''Highly suggestive of malignancy,'' the facility would have to provide the report to the healthcare provider, or if the referring healthcare provider is unavailable, to a responsible designee (proposed § 900.12(c)(3)(ii)) within a specified timeframe; the current regulation states that facilities must make reasonable attempts to provide the report in such situations ''as soon as possible.'' The provision of the report to the healthcare provider was not included in the currently approved information collection burden, OMB control number 0910–0309, because it was considered usual and customary practice and was part of the standard of care prior to the implementation of the regulations (see 5 CFR 1320.3(b)(2)). Provision of the mammography report to healthcare providers continues to be part of the standard of care and remains the usual and customary business practice. Therefore, these changes would not result in additional burden.

Under § 900.12(c)(2), *Communication of mammography results to the patients,* within 30 days of the mammographic examination, each facility shall provide each patient a summary of the mammography report written in lay terms. Under the proposed rule, if the final assessment is ''Suspicious'' or ''Highly suggestive of malignancy,'' the facility would have to provide the patient a summary of the mammography report within a specified timeframe (proposed § 900.12(c)(2)); the current regulation states that facilities must make reasonable attempts to provide the report in such situations ''as soon as possible.'' Under the proposed rule, this summary would need to include the name of the patient and name, address, and telephone number of the facility. We estimate that the proposed requirements for the lay summary to include this information would not result in a change to the currently approved information collection burden for § 900.12(c)(2).

Proposed § 900.12(c)(2) also would require facilities to provide an assessment of breast density in the lay summary. We estimate a one-time burden for facilities to update their existing lay summary reports with the breast density assessments. Based on the ERG report, we believe this would take 11 hours per facility (Ref. 34).

Also, under § 900.12(c)(2)(ii), each facility that accepts patients who do not have a healthcare provider shall maintain a system for referring such patients to a healthcare provider when clinically indicated. The proposed rule would also require that the system provide referrals when ''mammographically'' indicated. We estimate this proposed addition would not result in a change to the currently approved information collection burden.

The proposed requirements in § 900.12(c)(2)(iii) and (c)(2)(iv) to provide an explanation of the breast density assessment identified in § 900.12(c)(1)(vi) are not considered to be ''collections of information'' because the language is originally supplied by the Federal government for the purpose of disclosure to members of the public (5 CFR 1320.3(c)(2)).

Under proposed § 900.12(c)(4)(i), facilities that perform mammograms must maintain mammographic records. The proposed rule would require that facilities implement policies and procedures to minimize the possibility of record loss and would require that records be maintained in the modality in which they were produced. We estimate these proposed additions would not result in a change to the currently approved information collection burden.

Under § 900.12(c)(4)(ii), facilities shall, upon request by or on behalf of the patient, transfer or release the mammograms and copies of the patient's reports to a medical institution, a physician or healthcare provider of the patient, or to the patient directly. Under proposed § 900.12(c)(4)(ii) and (c)(4)(iii), facilities would need to transfer original mammograms (and copies of associated reports) or provide copies of mammograms (and copies of associated reports) within a specified period of time. Copies of mammograms would need to be in the same modality in which they were produced. Moreover, for digital mammograms or digital breast tomosynthesis, the facility would have to be able to provide the recipient with original digital images electronically if the examination is being transferred for final interpretation. While the burden of maintaining records under § 900.12(c)(4) is included in the currently approved burden estimate, the currently approved burden estimate does not include the third-party disclosure burden of transferring the records. We estimate that approximately one third of patients would request transfer or release of the records (this equals an average of approximately 1,508 requests per facility) and it would take approximately 5 minutes per request.

Under proposed § 900.12(c)(4)(v), before a facility closes or ceases to provide mammography services, it would have to make arrangements for access by patients and healthcare providers to their mammographic records. Additionally, the facility would have to notify its accreditation body and certification agency in writing of the arrangements it has made and must make reasonable efforts to notify all affected patients. We estimate that 1 percent of facilities would close on an annual basis and that it would take each facility approximately 32 hours to provide notification and access to the records.

Quality assurance-mammography medical outcomes audit—§ 900.12(f): Section 900.12(f)(1) requires each facility to establish a system to collect

and review outcome data for all mammographic examinations performed, including follow up on the disposition of all positive mammograms and correlation of pathology results with the interpreting physician's mammography report. The proposed rule would clarify that positive predictive value, cancer detection rate, and recall rate would have to be collected during this audit. We estimate that the proposed clarifications would not result in a change to the currently approved information collection burden.

Additional mammography review and patient and referring physician notification—§ 900.12(j): Under § 900.12(j)(1), if FDA believes that mammographic quality at a facility has been compromised and may present a serious risk to human health, the facility must provide clinical images and other relevant information for review by the accreditation body or other entity designated by FDA. Under the proposed rule, the State certification agency may request and then review such information. We estimate these proposed revisions would not result in a change to the currently approved information collection burden.

Under § 900.12(j)(2), when FDA has determined that the quality of mammography performed by the facility poses a significant risk to human health, a facility may be required to notify all patients who received mammograms at the facility or those patients who are determined to be at risk due to the quality of their mammography, and their referring physicians of the deficiencies and resulting potential harm, appropriate remedial measures, and other relevant information. Under the proposed rule, facilities would need to notify referring non-physician healthcare providers (along with referring physicians). We estimate this proposed revision would not result in a change to the currently approved information collection burden. Also under the proposed rule, State certification agencies (along with FDA) would have the authority to notify patients and their providers if a facility is unable or unwilling to do so. We estimate that the burden to State certification agencies would be similar to the approved burden estimate for facilities; approximately five notifications per year will take 100 hours per notification.

To ensure that comments on information collection are received, OMB recommends that written comments be faxed to the Office of Information and Regulatory Affairs, OMB, Attn: FDA Desk Officer, Fax: 202–395–7285, or emailed to *oira_submission@omb.eop.gov.* All comments should be identified with the title, ''Mammography Facilities, Standards, and Lay Summaries for Patients (OMB control number 0910–0309)''.

In compliance with the PRA (44 U.S.C. 3407(d)), the Agency has submitted the information collection provisions of this proposed rule (revisions of collections approved under OMB control number 0910–0309) to OMB for review. These requirements will not be effective until FDA obtains OMB approval. FDA will publish a notice concerning OMB approval of these requirements in the **Federal Register**.

X. Federalism

The MQSA established minimum national quality standards for mammography. The MQSA replaced a patchwork of Federal, State, and private standards with uniform Federal standards designed to ensure that all women nationwide receive adequate quality mammography services. FDA has worked very closely with State officials in developing the national standards for the MQSA program and has sought and obtained input from States at every step of the process.

FDA issued final rules implementing the MQSA on October 28, 1997 (''Quality Mammography Standards,'' 62 FR 55852) and February 6, 2002 (''State Certification of Mammography Facilities,'' 67 FR 5446). As required by Executive Order 13132 (August 4, 1999), FDA prepared a federalism assessment in this latter final rule and determined that the rule was consistent with the federalism principles expressed in Executive Order 13132.

The proposed amendments to the MQSA regulations, among other things, are intended to amend the requirements for reporting to healthcare providers and patients to assure that patients receive all necessary information after their mammograms, including an assessment of breast density, while not unduly burdening the mammography facility.

Although certain proposed provisions impact Federal-State relations, FDA does not believe that they impose any additional, significant burden on the States. The division of responsibilities between FDA, the States, and State agencies would not change if the proposed regulations were finalized, as these proposals would continue to provide for necessary uniformity of minimum national standards and, at the same time, provide maximum flexibility to States administering the States as Certifier program within their State, and State agencies serving as accreditation bodies.

On November 4, 2011, FDA convened a public meeting of the NMQAAC where possible amendments to the MQSA regulations, including breast density reporting, were discussed (Ref. 18). This meeting was open to the public and time was allotted for public statements on issues of concern in the mammography field. FDA has also met and held teleconferences several times a year with its approved accreditation bodies and State certification agencies to discuss issues of mutual concern.

The Agency also has long enjoyed a good relationship with the Conference of Radiation Control Program Directors, Inc. (CRCPD), which is the professional organization of the State agencies concerned with radiation protection. The CRCPD has established a standing Mammography Committee, which meets with FDA mammography staff at least once a year.

For the reasons discussed previously, FDA believes that this proposed rule is consistent with the federalism principles expressed in Executive Order 13132.

XI. References

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

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List of Subjects in 21 CFR Part 900

Electronic products, Health facilities, Medical devices, Radiation protection, Reporting and recordkeeping requirements, X-rays.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 900 is amended as follows:

PART 900—MAMMOGRAPHY

■ 1. The authority citation for part 900 continues to read as follows:

Authority: 21 U.S.C. 360i, 360nn, 374(e); 42 U.S.C. 263b.

■ 2. Amend § 900.2 by revising paragraphs (z), (aa)(1) and (2), and by adding new paragraph (aa)(3) to read as follows:

§ 900.2 Definitions.

* * * * *

(z) *Mammographic modality* means a technology, within the scope of 42 U.S.C. 263b, for radiography of the breast. Examples are screen-film mammography and full field digital mammography.

(aa) * * *

(1) Radiography of the breast performed during invasive interventions for localization or biopsy procedures;

(2) Radiography of the breast performed with an investigational mammography device as part of a

scientific study conducted in accordance with FDA's investigational device exemption regulations in part 812 of this chapter; or

(3) Computed tomography of the breast.

* * * * *

■ 3. Amend § 900.4 by redesignating paragraph (a)(6) as (a)(6)(i) and by adding new paragraph (a)(6)(ii).

The addition reads as follows:

§ 900.4 Standards for accreditation bodies.

(a) * * *

(6)(i) * * *

(ii) If a facility has failed to become accredited after three consecutive attempts, an accreditation body shall not accept an application for accreditation from the facility for a period of 1 year from the date of the most recent accreditation failure.

* * * * *

■ 4. In § 900.11 revise paragraph (c)(4) to read as follows:

§ 900.11 Requirements for certification.

* * * * *

(c) * * *

(4) If a facility's certificate was revoked on the basis of an act described in 42 U.S.C. 263b(i)(1), as implemented by § 900.14(a), no person who owned or operated that facility at the time the act occurred may own or operate a mammography facility within 2 years of the date of revocation.

■ 5. Amend § 900.12 by:

■ a. Revising paragraph (a)(4);

■ b. Adding paragraphs (b)(2)(i) and (ii);

■ c. Revising paragraph (b)(11);

■ d. Adding paragraph (b)(16); and

■ e. Revising paragraphs (c)(1) and (2), (c)(3)(ii), (c)(4), (f)(1), and (j).

The additions and revisions read as follows:

§ 900.12 Quality standards.

(a) * * *

(4) *Retention of personnel records.* Facilities shall maintain records of training and experience relevant to their qualification under MQSA for personnel who work or have worked at the facility as interpreting physicians, radiologic technologists, or medical physicists. These records must be available for review by the MQSA inspectors. Records of personnel no longer employed by the facility must be maintained at least until the next annual inspection has been completed and FDA has determined that the facility is in compliance with the MQSA personnel requirements. The facility shall provide copies of these personnel records to current or former interpreting physicians, radiologic technologists, and medical physicists upon their reasonable request. Before a facility closes or ceases to provide mammography services, it must make arrangements for access by personnel to their MQSA personnel records. This access may be provided by the permanent transfer of these records to the personnel or the transfer of the records to a facility or other entity that will provide access to these records.

(b) * * *

(2) * * *

(i) All digital accessory components shall be approved or cleared by FDA,

(A) Specifically for mammography or,

(B) For a use that could include mammography and have the same equipment specifications as those approved or cleared by FDA specifically for mammography.

(ii) A mammography unit that is converted from one mammographic modality to another is considered a new unit at the facility under this part and must, prior to clinical use, undergo a mammography equipment evaluation demonstrating compliance with applicable requirements. The facility must also follow its accreditation body's procedures for applying for accreditation of that unit.

* * * * *

(11) *Film.* For facilities using screen-film units, the facility shall use x-ray film for mammography that has been designated by the film manufacturer as appropriate for mammography. For facilities using hardcopy prints of digital images for transfer, retention, or final interpretation purposes, the facility shall use a type of film designated by the film manufacturer as appropriate for these purposes and compatible with the printer being used.

* * * * *

(16) *Equipment—other modalities.* Systems with image receptor modalities other than screen-film shall demonstrate compliance with quality standards by successful results of quality assurance testing as specified under paragraph (e)(6) of this section.

(c) *Medical records and mammography reports*—(1) *Contents and terminology.* Each facility shall prepare a written report of the results of each mammographic examination performed under its certificate. The mammographic examination presented for interpretation must be in the original mammographic modality in which it was performed, and must not consist of digital images produced through copying or digitizing hardcopy original images. The mammography report shall include the following information:

(i) The name of the patient and an additional patient identifier;

(ii) Date of examination, facility name, and location. At a minimum, the location shall include the city, State, ZIP code, and telephone number of the facility;

(iii) The name of the interpreting physician who interpreted the mammogram;

(iv) Overall final assessment of findings, classified in one of the following categories:

(A) ''Negative:'' Nothing to comment upon (if the interpreting physician is aware of clinical findings or symptoms, despite the negative assessment, these shall be explained);

(B) ''Benign.'' Also, a normal result, with benign findings present, but no evidence of malignancy (if the interpreting physician is aware of clinical findings or symptoms, despite the benign assessment, these shall be explained);

(C) ''Probably Benign:'' Finding(s) has a high probability of being benign;

(D) ''Suspicious:'' Finding(s) without all the characteristic morphology of breast cancer but indicating a definite probability of being malignant;

(E) ''Highly suggestive of malignancy:'' Finding(s) has a high probability of being malignant;

(F) ''Known Biopsy Proven Malignancy.'' Reserved for known malignancies being mammographically evaluated for definitive therapy; and

(G) ''Post-Procedure Mammograms for Marker Placement.'' Reserved for a post-procedure mammogram used to confirm the deployment and position of a breast tissue marker.

(v) In cases where no final assessment category can be assigned due to incomplete work-up, one of the following classifications shall be assigned as an assessment and reasons why no assessment can be made shall be stated by the interpreting physician.

(A) ''Incomplete: Need additional imaging evaluation.'' Reserved for examinations where additional imaging needs to be performed before an assessment category identified in paragraph (c)(1)(iv)(A) through (G) of this section can be given; or

(B) ''Incomplete: Need prior mammograms for comparison.'' Reserved for examinations where comparison with prior mammograms should be performed before an assessment category identified in paragraph (c)(1)(iv)(A) through (G) of this section can be given. If this assessment category is used, a follow up report with an assessment category identified in paragraph (c)(1)(iv)(A) through (E) of this section must be issued within 30 calendar days of the

initial report whether or not comparison views can be obtained.

(vi) Overall assessment of breast density, classified in one of the following categories:

(A) ''The breasts are almost entirely fatty.''

(B) ''There are scattered areas of fibroglandular density.''

(C) ''The breasts are heterogeneously dense, which may obscure small masses.''

(D) ''The breasts are extremely dense, which lowers the sensitivity of mammography.

(vii) Recommendations made to the healthcare provider about what additional actions, if any, should be taken. All clinical questions raised by the referring healthcare provider shall be addressed in the report to the extent possible, even if the assessment is negative or benign.

(2) *Communication of mammography results to the patients.* Each facility shall provide each patient a summary of the mammography report written in lay terms within 30 calendar days of the mammographic examination which shall, at a minimum, include the name of the patient, the name, address, and telephone number of the facility performing the mammographic examination and an assessment of breast density as described in paragraph (c)(1)(vi) of this section. If the assessment of the mammography report is ''Suspicious'' or ''Highly suggestive of malignancy,'' the facility shall provide the patient a summary of the mammography report written in lay language within 7 calendar days of the final interpretation of the mammograms but in no case later than 21 calendar days from the date of the mammographic examination.

(i) Patients who do not name a healthcare provider to receive the mammography report shall be sent the report described in paragraph (c)(1) of this section within 30 days, in addition to the written notification of results in lay terms.

(ii) Each facility that accepts patients who do not have a healthcare provider shall maintain a system for referring such patients to a healthcare provider when mammographically or clinically indicated.

(iii) If the mammography report identifies the patient's breast density as ''The breasts are almost entirely fatty'' or ''There are scattered areas of fibroglandular density,'' the lay summary shall include ''Some patients have high breast tissue density (more glands than fat in the breasts), which makes it harder to find breast cancer on a mammogram. Your breast tissue density is low, not high. Follow the recommendations in this letter, and talk to your healthcare provider about breast density, risks for breast cancer, and your individual situation.''

(iv) If the mammography report identifies the breast density as ''The breasts are heterogeneously dense, which may obscure small masses'' or ''The breasts are extremely dense, which lowers the sensitivity of mammography,'' the lay summary shall include ''Some patients have high breast tissue density (more glands than fat in the breasts), which makes it harder to find breast cancer on a mammogram. Your breast tissue density is high. Some patients with high breast density may need other imaging tests in addition to mammograms. Follow the recommendations in this letter, and talk to your healthcare provider about high breast density and how it relates to breast cancer risk, and your individual situation.''

(3) * * *

(ii) If the assessment is ''Suspicious'' or ''Highly suggestive of malignancy,'' the facility shall provide a written report of the mammographic examination, including the items listed in paragraph (c)(1) of this section, to the referring healthcare provider, or if the referring healthcare provider is unavailable, to a responsible designee of the referring healthcare provider within 7 calendar days of the final interpretation of the mammograms but in no case later than 14 calendar days from the date of the mammographic examination.

(4) *Recordkeeping.* Each facility that performs mammograms:

(i) Shall (except as provided in paragraph (c)(4)(ii) of this section) maintain the mammograms and mammography reports in a permanent medical record of the patient for a period of not less than 5 years, or not less than 10 years if no additional mammograms of the patient are performed at the facility, or a longer period if mandated by State or local law. Facilities shall implement policies and procedures to minimize the possibility of loss of these records. The mammograms must be retained in retrievable form in the mammographic modality in which they were produced. They cannot be produced by copying or digitizing hardcopy originals.

(ii) Shall upon request by, or on behalf of, the patient, permanently or temporarily transfer the original mammograms and copies of the patient's reports to a medical institution, a physician or healthcare provider of the patient, or to the patient directly during the time specified in paragraph (c)(4)(i) of this section. Transfer of the mammograms and mammography reports must take place within 15 calendar days of the facility receiving such request. The transferred mammograms must be in the mammographic modality in which they were produced, and cannot be produced by copying or digitizing hardcopy originals. For digital mammograms or digital breast tomosynthesis, if the examination is being transferred for final interpretation purposes, the facility must be able to provide the recipient with original digital images electronically;

(iii) Shall upon request by, or on behalf of, the patient, provide copies of mammograms and copies of mammogram reports to a medical institution, a physician or healthcare provider of the patient, or to the patient directly during the time specified in paragraph (c)(4)(i) of this section. Release of the copies must take place within 15 calendar days of the facility receiving such request;

(iv) Any fee charged to the patients for providing the services in paragraphs (c)(4)(ii) or (c)(4)(iii) of this section shall not exceed the documented costs associated with this service; and

(v) Before a facility closes or ceases to provide mammography services, it must make arrangements for access by patients and healthcare providers to their mammographic records. This access may be provided by the permanent transfer of mammographic records to the patient or her healthcare provider or the transfer of the mammographic records to a facility or other entity that will provide access to patients and healthcare providers for the time periods specified in paragraph (c)(4)(i) of this section. The facility must notify its accreditation body and certification agency in writing of the arrangements it has made and must make reasonable efforts to notify all affected patients.

* * * * *

(f) * * *

(1) *General requirements.* For the purposes of these requirements, a mammographic examination consisting of routine views of an asymptomatic woman shall be termed a screening mammogram, while a mammographic examination consisting of individualized views of a woman with breast symptoms, physical signs of breast disease, or abnormal findings on a screening mammogram shall be termed a diagnostic mammogram. Each facility shall establish a system to collect and review outcome data for all mammographic examinations

performed, including follow up on the disposition of all positive mammograms and correlation of pathology results with the interpreting physician's mammography report. In addition, for cases of breast cancer among patients imaged at the facility that subsequently become known to the facility, the facility shall promptly initiate follow up on surgical and/or pathology results and review of the mammographic examinations taken prior to the diagnosis of a malignancy. Analysis of these outcome data shall be made individually and collectively for all interpreting physicians and, at a minimum, shall consist of a determination of the following:

(i) Positive predictive value—percent of patients with positive mammograms who are diagnosed with breast cancer within 1 year of the date of the mammographic examination.

(ii) Cancer detection rate—of the patients initially examined with screening mammograms who receive an assessment of ''Incomplete: Need additional imaging evaluation,'' ''Suspicious,'' or ''Highly suggestive of malignancy'' on the screening mammogram or on a subsequent diagnostic mammogram, the number of patients who are diagnosed with breast cancer within 1 year of the date of the initial screening mammogram, expressed arithmetically as a ratio per 1,000 patients.

(iii) Recall rate—percentage of screening mammograms given an assessment of ''Incomplete: Need additional imaging evaluation.''

* * * * *

(j) *Additional mammography review and patient and referring physician notification.*

(1) If FDA or the State certification agency believes that mammographic quality at a facility has been compromised and may present a significant risk to human health, the facility shall provide clinical images and other relevant information, as specified by FDA or the State certification agency, for review by the accreditation body or the State certification agency. This additional mammography review will help FDA or the State certification agency determine whether the facility is in compliance with this section and whether there is a need to notify affected patients, their referring physicians or healthcare providers, and/or the public that there is a significant risk to human health.

(2) Based on the results of the additional mammography review, the facility's failure to comply with the terms of the additional mammography review, or other information, FDA or the State certification agency may determine that the quality of mammography performed by a facility, whether or not certified under § 900.11, was so inconsistent with the quality standards established in this part as to present a significant risk to human health. FDA or the State certification agency may require such a facility to notify all patients who received mammograms at the facility or those patients who are determined to be at risk due to the quality of their mammography, and their referring physicians or healthcare providers, of the deficiencies and resulting potential harm, appropriate remedial measures, and such other relevant information as FDA or the State certification agency may require. Such notification shall occur within a timeframe and in a manner specified by FDA or the State certification agency. If the facility is unable or unwilling to perform such notification, FDA or the State certification agency may notify patients and their referring physicians or other healthcare providers individually or through the mass media.

■ 6. In § 900.14, revise paragraph (a) introductory text and paragraphs (a)(3), (5), and (6), and add paragraph (a)(7) to read as follows:

§ 900.14 Suspension or revocation of certificates.

(a) Except as provided in paragraph (b) of this section, FDA may suspend or revoke a certificate if FDA finds, after providing the owner or operator of the facility with notice and opportunity for a hearing in accordance with part 16 of this chapter, that the facility, owner, operator, or any employee of the facility:

* * * * *

(3) Has failed to comply with reasonable requests of FDA, the State certification agency, or the accreditation body for records, information, reports, or materials, including clinical images for an additional mammography review under § 900.12(j), that FDA or the State certification agency believes are necessary to determine the continued eligibility of the facility for a certificate or continued compliance with the standards of § 900.12;

* * * * *

(5) Has violated or aided and abetted in the violation of any provision of or regulation promulgated pursuant to 42 U.S.C. 263b;

(6) Has failed to comply with prior sanctions imposed by FDA or the State certification agency under 42 U.S.C. 263b(h), including a directed plan of correction or a patient and referring physician notification; or

(7) Has failed to comply with reasonable requests of current or former facility personnel for records of their training or experience relevant to their qualification under MQSA, in violation of § 900.12(a)(4).

* * * * *

Dated: March 21, 2018.

Scott Gottlieb,

Commissioner of Food and Drugs.

[FR Doc. 2019–05803 Filed 3–27–19; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–143686–07]

RIN 1545–BH35

The Allocation of Consideration and Allocation and Recovery of Basis in Transactions Involving Corporate Stock or Securities; Withdrawal

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Proposed rule; withdrawal.

SUMMARY: This document withdraws a notice of proposed rulemaking containing proposed regulations under numerous sections of the Internal Revenue Code (Code). The proposed regulations being withdrawn would have provided guidance on the recovery of stock basis in distributions of property made by a corporation to a shareholder and certain transactions treated as dividend-equivalents, as well as guidance regarding the determination of gain and the basis of stock or securities received in certain transactions. The proposed regulations being withdrawn would have affected shareholders and security holders of corporations.

DATES: As of March 28, 2019, the notice of proposed rulemaking that was published in the **Federal Register** (74 FR 3509) on January 21, 2009, with corrections published in the **Federal Register** (74 FR 9575) on March 5, 2009, is withdrawn.

FOR FURTHER INFORMATION CONTACT: Kevin M. Jacobs at (202) 317–5332 or Aglaia Ovtchinnikova at (202) 317–6975 (neither a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

On January 21, 2009, the Department of the Treasury (Treasury Department) and the IRS published a notice of proposed rulemaking (REG–143686–07)

in the **Federal Register** (74 FR 3509) containing proposed regulations under sections 301, 302, 304, 351, 354, 355, 356, 358, 368, 861, 1001, and 1016 of the Code. On March 5, 2009, the Treasury Department and the IRS published corrections to the notice of proposed rulemaking in the **Federal Register** (74 FR 9575) (collectively, the 2009 Proposed Regulations).

The 2009 Proposed Regulations generally would have provided a single model for stock basis recovery by a shareholder that receives a distribution to which section 301 applies and a single model for sale and exchange transactions to which section 302(a) applies, including certain elements of an exchange in pursuance of a plan of reorganization under section 368. The 2009 Proposed Regulations also would have defined the scope of the exchange that must be analyzed under particular Code provisions and provided a methodology for determining gain under section 356 and stock basis under section 358.

The 2009 Proposed Regulations responded to comments received by the Treasury Department and the IRS regarding the then-recently published section 358 regulations. These comments included suggestions to expand the tracing rules of the section 358 regulations to stock transfers that are subject to section 351 but do not qualify as reorganizations, as well as questions regarding whether (and, if so, to what extent) shareholder elections constitute terms of an exchange and whether the terms of an exchange control for purposes of qualifying a transaction as a reorganization under section 368.

Finally, the 2009 Proposed Regulations included amendments to the current regulations under section 304 that would have updated those regulations to reflect statutory amendments to that section. See section 226 of the Tax Equity and Fiscal Responsibility Act of 1982, Pub. L. 97–248 (96 Stat. 325, 490) (September 3, 1982), section 712(l) of the Deficit Reduction Act of 1984, Pub. L. 98–369 (98 Stat. 494, 953–55) (July 18, 1984), section 1875(b) of the Tax Reform Act of 1986, Pub. L. 99–514 (100 Stat. 2085, 2894) (October 22, 1986), and section 1013 of the Taxpayer Relief Act of 1997, Pub. L. 105–34 (111 Stat. 788, 918) (August 5, 1997).

The Treasury Department and the IRS received many comments regarding the 2009 Proposed Regulations. The chief concern raised by commenters was that the approach taken in the 2009 Proposed Regulations represented an unwarranted departure from current law as a result of which minor changes to an overall business transaction could cause meaningful changes to the tax consequences, thereby elevating the form of the transaction over its substance.

After thoroughly considering the comments received, the Treasury Department and the IRS have determined that it is unlikely that the approach of the 2009 Proposed Regulations can be implemented in comprehensive final regulations without significant modifications. As a result, the Treasury Department and the IRS have decided to withdraw the 2009 Proposed Regulations. The Treasury Department and the IRS are continuing to study the issues addressed in the 2009 Proposed Regulations, with a particular focus on issues surrounding sections 301(c)(2) and 304, and § 1.302–2(c) of the Income Tax Regulations.

The Treasury Department and the IRS continue to believe that under current law, the results of a section 301 distribution should derive from the consideration received by a shareholder in respect of each share of stock, notwithstanding designations otherwise. See *Johnson* v. *United States,* 435 F.2d 1257 (4th Cir. 1971). The Treasury Department and the IRS also continue to believe that, under current law, with respect to redemptions governed by section 302(d), any unrecovered basis in the redeemed stock of a shareholder may be shifted to other stock only if such an adjustment is a proper adjustment within the meaning of § 1.302–2(c). Not all shifts of a redeemed shareholder's unrecovered basis result in proper adjustments, and certain basis adjustments can lead to inappropriate results. See, *e.g.,* Notice 2001–45, 2001–33 I.R.B. 129.

Drafting Information

The principal author of this withdrawal notice is Aglaia Ovtchinnikova of the Office of Associate Chief Counsel (Corporate). However, other personnel from the Treasury Department and the IRS participated in its development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Withdrawal of Notice of Proposed Rulemaking

■ Accordingly, under the authority of 26 U.S.C. 7805, the Treasury Department and the IRS withdraw the notice of proposed rulemaking (REG–143686–07) that was published in the **Federal Register** (74 FR 3509) on January 21, 2009, with corrections that were published in the **Federal Register** (74 FR 9575) on March 5, 2009.

Kirsten Wielobob,

Deputy Commissioner for Services and Enforcement.

[FR Doc. 2019–05959 Filed 3–27–19; 8:45 am]

BILLING CODE 4830–01–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. 176]

RIN 1513–AB54

Modernization of the Labeling and Advertising Regulations for Wine, Distilled Spirits, and Malt Beverages

Correction

In proposed rule 2018–24446 beginning on page 60562 in the issue of Monday, November 26, 2018, make the following corrections:

1. On page 60616, in the second column, section heading ''§ 4.04.0 Scope.'' should read ''§ 4.0 Scope.''.

2. On the same page, in the same column, section heading ''§ 4.14.1 Definitions.'' should read ''§ 4.1 Definitions.''.

3. On page 60617, in the first column, section heading ''§ 4.24.2 Territorial extent.'' should read ''§ 4.2 Territorial extent.''.

4. On the same page, in the same column, section heading ''§ 4.34.3 General requirements and prohibitions under the FAA Act.'' should read ''§ 4.3 General requirements and prohibitions under the FAA Act.''.

5. On the same page, in the third column, section heading ''§ 4.44.4 [Reserved]'' should read ''§ 4.4 [Reserved]''.

6. On the same page, in the same column, section heading ''§ 4.54.5 Wines covered by this part.'' should read ''§ 4.5 Wines covered by this part.''.

7. On the same page, in the same column, section heading ''§ 4.64.6 Products produced as wine that are not covered by this part.'' should read ''§ 4.6 Products produced as wine that are not covered by this part.''.

8. On the same page, in the same column, section heading ''§ 4.74.7 Other TTB labeling regulations that apply to wine.'' should read ''§ 4.7 Other TTB labeling regulations that apply to wine.''.

9. On page 60618, in the first column, section heading ''§ 4.84.8 Wine for

export.'' should read ''§ 4.8 Wine for export.''.

10. On the same page, in the same column, section heading ''§ 4.94.9 Compliance with Federal and State requirements.'' should read ''§ 4.9 Compliance with Federal and State requirements.''.

11. On page 60645, in the first column, section heading ''§ 5.05.0 Scope.'' should read ''§ 5.0 Scope.''.

12. On the same page, in the second column, section heading ''§ 5.15.1 Definitions.'' should read ''§ 5.1 Definitions.''.

13. On page 60646, in the first column, section heading ''§ 5.25.2 Territorial extent.'' should read ''§ 5.2 Territorial extent.''.

14. On the same page, in the same column, section heading ''§ 5.35.3 General requirements and prohibitions under the FAA Act.'' should read ''§ 5.3 General requirements and prohibitions under the FAA Act.''.

15. On the same page, in the second column, section heading ''§ § 5.4§ 5.4–5.6 [Reserved]'' should read ''§§ 5.4–5.6 [Reserved]''.

16. On the same page, in the same column, section heading ''§ 5.75.7 Other TTB labeling regulations that apply to distilled spirits.'' should read ''§ 5.7 Other TTB labeling regulations that apply to distilled spirits.''.

17. On the same page, in the third column, section heading ''§ 5.85.8 Distilled spirits for export.'' should read ''§ 5.8 Distilled spirits for export.''.

18. On the same page, in the same column, section heading ''§ 5.95.9 Compliance with Federal and State requirements.'' should read ''§ 5.9 Compliance with Federal and State requirements.''.

19. On page 60672, in the second column, section heading ''§ 7.07.0 Scope.'' should read ''§ 7.0 Scope.''.

20. On the same page, in the same column, section heading ''§ 7.17.1 Definitions.'' should read ''§ 7.1 Definitions.''.

21. On page 60673, in the first column, section heading ''§ 7.27.2 Territorial extent.'' should read ''§ 7.2 Territorial extent.''.

22. On the same page, in the same column, section heading ''§ 7.37.3 General requirements and prohibitions under the FAA Act.'' should read ''§ 7.3 General requirements and prohibitions under the FAA Act.''.

23. On the same page, in the second column, section heading ''§ 7.47.4 Jurisdictional limits of the FAA Act.'' should read ''§ 7.4 Jurisdictional limits of the FAA Act.''.

24. On the same page, in the third column, section heading ''§ 7.57.5 Ingredients and processes.'' should read ''§ 7.5 Ingredients and processes.''.

25. On the same page, in the same column, section heading ''§ 7.67.6 Brewery products not covered by this part.'' should read ''§ 7.6 Brewery products not covered by this part.''.

26. On page 60674, in the first column, section heading ''§ 7.77.7 Other TTB labeling regulations that apply to malt beverages.'' should read ''§ 7.7 Other TTB labeling regulations that apply to malt beverages.''.

27. On the same page, in the same column, section heading ''§ 7.87.8 Malt beverages for export.'' should read ''§ 7.8 Malt beverages for export.''.

28. On the same page, in the same column, section heading ''§ 7.97.9 Compliance with Federal and State requirements.'' should read ''§ 7.9 Compliance with Federal and State requirements.''.

29. On page 60688, in the second column, section heading ''§ 14.014.0 Applicability.'' should read ''§ 14.0 Applicability.''.

30. On the same page, in the same column, section heading ''§ 14.114.1 Definitions.'' should read ''§ 14.1 Definitions.''.

31. On page 60689, in the first column, section heading ''§ 14.214.2 Territorial extent.'' should read ''§ 14.2 Territorial extent.''.

32. On the same page, in the same column, section heading ''§ 14.314.3 Delegations of the Administrator's authorities.'' should read ''§ 14.3 Delegations of the Administrator's authorities.''.

33. On the same page, in the second column, section heading ''§ 14.414.4 General requirements under the FAA Act.'' should read ''§ 14.4 General requirements under the FAA Act.''.

34. On the same page, in the third column, section heading ''§ 14.514.5 Legibility of mandatory information.'' should read ''§ 14.5 Legibility of mandatory information.''.

35. On the same page, in the same column, section heading ''§ 14.614.6 Mandatory statements.'' should read ''§ 14.6 Mandatory statements.''.

[FR Doc. C1–2018–24446 Filed 3–27–19; 8:45 am]

BILLING CODE 1301–00–D

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket Number USCG–2019–0014]

RIN 1625–AA08

Special Local Regulations; Sector Ohio Valley Annual and Recurring Special Local Regulations, Update

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes amending and updating its special local regulations for recurring marine parades, regattas, and other events that take place in the Coast Guard Sector Ohio Valley area of responsibility (AOR). Through this notice the current list of recurring special local regulations is updated with revisions, additions, and removals of events that no longer take place in the Sector Ohio Valley AOR. When these special local regulations are enforced, certain restrictions are placed on marine traffic in specified areas. We invite your comments on this proposed rulemaking.

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

ADDRESSES: You may submit comments identified by docket number USCG–2019–0014 using the Federal eRulemaking Portal at *http://www.regulations.gov.* See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions on this proposed rule, call or email Petty Officer Riley Jackson, Sector Ohio Valley, U.S. Coast Guard; telephone (502) 779–5347, email *SECOHV–WWM@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
COTP Captain of the Port, Sector Ohio Valley
DHS Department of Homeland Security
E.O. Executive Order
FR Federal Register
NPRM Notice of proposed rulemaking
Pub. L. Public Law
§ Section
U.S.C. United States Code

II. Background, Purpose, and Legal Basis

The Captain of the Port Sector Ohio Valley (COTP) proposes to update the

current list of recurring special local regulations found in Table 1 of 33 CFR 100.801.

This rule updates the list of annually recurring special local regulations under 33 CFR 100.801, Table 1 for annual special local regulations in the COTP zone. The Coast Guard will address all comments through response via the rulemaking process, including additional revisions to this regulatory section. Additionally, these recurring events are provided to the public through local means and planned by the local communities.

The current list of annual and recurring special local regulations occurring in Sector Ohio Valley's AOR is published under 33 CFR part 100.801, Table 1. The most recent list was created May 14, 2018 via 83 FR 22194.

The Coast Guard's authority for establishing a special local regulation is contained at 46 U.S.C. 70041(a). The Coast Guard is amending and updating the special local regulations under 33 CFR part 100.801, Table 1 to include the most up to date list of recurring special local regulations for events held on or around navigable waters within Sector Ohio Valley's AOR. These events include marine parades, boat races, swim events, and other marine related events. The current list under 33 CFR 100.801, Table 1 requires amendment to provide new information on existing special local regulations, add new special local regulations expected to recur annually or biannually, and remove special local regulations that are no longer required. Issuing individual regulations for each new special local regulation, amendment, or removal of an existing special local regulation creates unnecessary administrative costs and burdens. This single proposed rulemaking will considerably reduce administrative overhead and provide the public with notice through publication in the **Federal Register** of recurring special local regulations.

The Coast Guard is issuing this notice of proposed rulemaking (NPRM) with a 15-day prior notice and opportunity to comment pursuant to section (b)(3) of the Administrative Procedure Act (APA) (5 U.S.C. 553). This provision authorizes an agency to publish a rule in less than 30 days before its effective date for ''good cause found and published with the rule.'' Under 5 U.S.C. 553(b)(3)(B), the Coast Guard finds that good cause exists for publishing this NPRM with a 15-day comment period because it is impractical to provide a 30-day comment period. These proposed regulated areas are necessary to ensure the safety of vessels and persons during the marine events. It is impracticable to publish an NPRM with a 30-day comment period because some of these updates must be established as early as the end of April 2019. A 15-day comment period would allow the Coast Guard to provide for public notice and comment, but also update the regulated areas soon enough that the length of the notice and comment period does not compromise public safety. The Coast Guard is proposing this rulemaking under authority in 46 U.S.C. 70034 (previously 33 U.S.C. 1231).

III. Discussion of Proposed Rule

Part 100 of 33 CFR contains regulations to provide effective control over regattas and marine parades conducted on U.S. navigable waters in order to ensure the safety of life in the regatta or marine parade area. Section 100.801 provides the regulations applicable to events taking place in the Eighth Coast Guard District and also provides a table listing each event and special local regulation. This section requires amendment from time to time to properly reflect the recurring special local regulations. This proposed rule updates Section 100.801, Table 1 for Sector Ohio Valley.

This proposed rule adds one new recurring special local regulation, removes two special local regulations, and amends the dates and regulated areas for ten recurring special local regulations already listed.

This proposed rule would add one new recurring special local regulation in Table 1 of Section 100.801 for Sector Ohio Valley, as follows:

Date	Sponsor/name	Sector Ohio Valley location	Regulated area
2 days—One weekend in August	Powerboat Nationals—Parkersburg Regatta/Parkersburg.	Parkersburg, WV	Ohio River, Mile 183.5–185.5 (West Virginia).

This proposed rule would remove the following two special local regulations from Table 1 of Section 100.801 because these events are no longer held:

Date	Sponsor/name	Sector Ohio Valley location	Regulated area
One Saturday in June or July	Paducah Summer Festival/Cross River Swim.	Paducah, KY	Ohio River, Mile 934–936 (Kentucky).
First or second weekend of July	Prizer Point Marina/4th of July Celebration.	Cadiz, KY	Cumberland River, Mile 54.0–55.09 (Kentucky).

This proposed rule would revise ten existing special local regulations in Table 1 of Section 100.801, as follows:

Line	Date	Event/sponsor	Ohio Valley location	Regulated area	Revision (date/area)
17	3 days—First week of August	EQT Pittsburgh Three Rivers Regatta.	Pittsburgh, PA	Allegheny River mile 0.0–1.0, Ohio River mile 0.0–0.8, Monongahela River mile 0.5 (Pennsylvania).	area.
26	1 day—First or second weekend of September.	SUP3RIVERS The Southside Outside.	Pittsburgh, PA	Monongahela River mile 0.0–3.09 Allegheny River mile 0.0–0.6 (Pennsylvania).	date/area.
32	2 days—First weekend of October	Three Rivers Rowing Association/Head of the Ohio Regatta.	Pittsburgh, PA	Allegheny River mile 0.0–5.0 (Pennsylvania).	area.

Line	Date	Event/sponsor	Ohio Valley location	Regulated area	Revision (date/area)
43	3 days—One of the last three weekends in September or one of the first two weekends in October.	Hadi Shrine/Owensboro Air Show	Owensboro, KY	Ohio River, Mile 754.0–760.0 (Kentucky).	date.
44	1 day—Last weekend in July or first weekend in August.	HealthyTriState.org/St. Marys Tri State Kayathalon.	Huntington, WV	Ohio River, Mile 305.1–308.3 (West Virginia).	area.
47	1 day—One weekend in September	Parkersburg Paddle Fest	Parkersburg, WV	Ohio River, Mile 184.3–188 (West Virginia).	date.
60	3 days—Second or third weekend of August.	Kittanning Riverbration boat races	Kittanning, PA	Allegheny River mile 42.0–46.0 (Pennsylvania).	date/area.
61	2 days—Second or third weekend in April.	Thunder Over Louisville	Louisville, KY	Ohio River, Mile 597.0–607.0 (Kentucky).	date/area.
62	3 days—One weekend in August or one of the first two weekends in September.	Evansville HydroFest	Evansville, IN	Ohio River, Mile 790.5–794.0 (Indiana).	date.
65	1 day—One weekend in August	YMCA River Swim	Charleston, WV	Kanawha River, Mile 58.3 to 61.8 (West Virginia).	area.

The effect of this proposed rule would be to restrict general navigation during these events. Vessels intending to transit the designated waterway through the special local regulations will only be allowed to transit the area when the COTP Ohio Valley, or designated representative, has deemed it safe to do so or at the completion of the event.

IV. Regulatory Analyses

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

A. Regulatory Planning and Review

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

The Coast Guard expects the economic impact of this proposed rule to be minimal, therefore a full regulatory evaluation is unnecessary. This proposed rule establishes special local regulations limiting access to certain areas under 33 CFR 100 within Sector Ohio Valley's AOR. The effect of this proposed rulemaking will not be significant because these special local regulations are limited in scope and duration. Additionally, the public is given advance notification through local forms of notice, the **Federal Register**, and/or Notices of Enforcement and, thus, will be able to plan operations around the special local regulations accordingly. Broadcast Notices to Mariners and Local Notices to Mariners will also inform the community of these special local regulations. Vessel traffic may request permission from the COTP or a designated representative to enter the restricted area.

B. Impact on Small Entities

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

While some owners or operators of vessels intending to transit the safety zone may be small entities, for reasons stated in section IV.A. above, this proposed rule would not have a significant economic impact on any owner or operator because they are limited in scope and will be in effect for short periods of time. Before the enforcement period, the Coast Guard COTP will issue maritime advisories widely available to waterway users. Deviation from the special local regulations established through this proposed rulemaking may be requested from the appropriate COTP and requests will be considered on a case-by-case basis.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

C. Collection of Information

This proposed rule 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 proposed rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

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

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

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. Normally such actions are categorically excluded from further review under paragraph L61 of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 01. of the Instruction because it involves establishment of special local regulations related to marine event permits for marine parades, regattas, and other marine events. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

G. Protest Activities

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

V. Public Participation and Request for Comments

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

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

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

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

List of Subjects in 33 CFR Part 100

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

For the reasons discussed in the preamble, the U.S. Coast Guard proposes to amend 33 CFR part 100 as follows:

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERWAYS

■ 1. The authority citation for part 100 continues to read as follows:

Authority: 33 U.S.C. 1233.

■ 2. In § 100.801, Revise Table 1 to read as follows:

§ 100.801 Table 1 Annual Marine Events in Sector Ohio Valley's AOR.

Date	Event/sponsor	Ohio Valley location	Regulated area
1. 3 days—Second or third weekend in March.	Oak Ridge Rowing Association/Cardinal Invitational.	Oak Ridge, TN	Clinch River, Mile 48.5–52.0 (Tennessee).
2. 1 day—Third weekend in March.	Vanderbilt Rowing/Vanderbilt Invite.	Nashville, TN	Cumberland River, Mile 188.0–192.7 (Tennessee).
3. 2 days—Fourth weekend in March.	Oak Ridge Rowing Association/Atomic City Turn and Burn.	Oak Ridge, TN	Clinch River, Mile 48.5–52.0 (Tennessee).
4. 1 day—One weekend in April	Lindamood Cup	Marietta, OH	Muskingum River, Mile 0.5–1.5 (Ohio).
5. 3 days—Third weekend in April	Oak Ridge Rowing Association/SIRA Regatta.	Oak Ridge, TN	Clinch River, Mile 48.5–52.0 (Tennessee).
6. 2 days—Third Friday and Saturday in April.	Thunder Over Louisville	Louisville, KY	Ohio River, Mile 597.0–604.0 (Kentucky).
7. 1 day—During the last week of April or first week of May.	Great Steamboat Race	Louisville, KY	Ohio River, Mile 595.0–605.3 (Kentucky).
8. 3 days—Fourth weekend in April.	Oak Ridge Rowing Association/Dogwood Junior Regatta.	Oak Ridge, TN	Clinch River, Mile 48.5–52.0 (Tennessee).
9. 3 days—Second weekend in May.	Vanderbilt Rowing/ACRA Henley	Nashville, TN	Cumberland River, Mile 188.0–194.0 (Tennessee).
10. 3 days—Second weekend in May.	Oak Ridge Rowing Association/Big 12 Championships.	Oak Ridge, TN	Clinch River, Mile 48.5–52.0 (Tennessee).
11. 3 days—Third weekend in May.	Oak Ridge Rowing Association/Dogwood Masters.	Oak Ridge, TN	Clinch River, Mile 48.5–52.0 (Tennessee).
12. 1 day—Third weekend in May	World Triathlon Corporation/IRONMAN 70.3.	Chattanooga, TN	Tennessee River, Mile 462.7–467.5 (Tennessee).
13. 1 day—During the last weekend in May or on Memorial Day.	Mayor's Hike, Bike and Paddle	Louisville, KY	Ohio River, Mile 601.0–604.5 (Kentucky).

Date	Event/sponsor	Ohio Valley location	Regulated area
14. 2 days-last weekend in May or first weekend in June.	Visit Knoxville/Racing on the Tennessee.	Knoxville, TN	Tennessee River, Mile 647.0–648.0 (Tennessee).
15. 3 days—First weekend in June.	Outdoor Chattanooga/Chattanooga Swim Festival.	Chattanooga, TN	Tennessee River, Mile 454.0–468.0 (Tennessee).
16. 2 days—First weekend of June.	Thunder on the Bay/KDBA	Pisgah Bay, KY	Tennessee River, Mile 30.0 (Kentucky).
17. 1 day—First weekend in June	Visit Knoxville/Knoxville Powerboat Classic.	Knoxville, TN	Tennessee River, Mile 646.4–649.0 (Tennessee).
18. 1 day— One weekend in June	Tri-Louisville	Louisville, KY	Ohio River, Mile 600.5–604.0 (Kentucky).
19. 2 days—One weekend in June.	New Martinsville Vintage Regatta	New Martinsville,WV.	Ohio River Mile 127.5–128.5 (West Virginia).
20. 3 days—One of the last three weekends in June.	Lawrenceburg Regatta/Whiskey City Regatta.	Lawrenceburg, IN	Ohio River, Mile 491.0–497.0 (Indiana).
21. 3 days—One of the last three weekends in June.	Hadi Shrine/Evansville Shriners Festival.	Evansville, IN	Ohio River, Mile 790.0–796.0 (Indiana).
22. 3 days—Third weekend in June.	TM Thunder LLC/Thunder on the Cumberland.	Nashville, TN	Cumberland River, Mile 189.6–192.3 (Tennessee).
23. 1 day—Third or fourth weekend in June.	Greater Morgantown Convention and Visitors Bureau/Mountaineer Triathlon.	Morgantown, WV	Monongahela River, Mile 101.0–102.0 (West Virginia).
24. 1 day—Fourth weekend in June.	Team Magic/Chattanooga Waterfront Triathlon.	Chattanooga, TN	Tennessee River, Mile 462.7–466.0 (Tennessee).
25. 3 days— The last weekend in June or one of the first two weekends in July.	Madison Regatta	Madison, IN	Ohio River, Mile 554.0–561.0 (Indiana).
26. 1 day—During the first week of July.	Evansville Freedom Celebration/4th of July Freedom Celebration.	Evansville, IN	Ohio River, Mile 790.0–797.0 (Indiana).
27. First weekend in July	Eddyville Creek Marina/Thunder Over Eddy Bay.	Eddyville, KY	Cumberland River, Mile 46.0–47.0 (Kentucky).
28. 2 days—One of the first two weekends in July.	Thunder on the Bay/KDBA	Pisgah Bay, KY	Tennessee River, Mile 30.0 (Kentucky).
29. 1 day—Second weekend in July.	Bradley Dean/Renaissance Man Triathlon.	Florence, AL	Tennessee River, Mile 254.0–258.0 (Alabama).
30. 1 day—Third or fourth Sunday of July.	Tucson Racing/Cincinnati Triathlon.	Cincinnati, OH	Ohio River, Mile 468.3–471.2 (Ohio).
31. 2 days—One of the last three weekends in July.	Dare to Care/KFC Mayor's Cup Paddle Sports Races/Voyageur Canoe World Championships.	Louisville, KY	Ohio River, Mile 600.0–605.0 (Kentucky).
32. 2 days—Last two weeks in July or first three weeks of August.	Friends of the Riverfront Inc./Pittsburgh Triathlon and Adventure Races.	Pittsburgh, PA	Allegheny River, Mile 0.0–1.5 (Pennsylvania).
33. 1 day—Fourth weekend in July.	Team Magic/Music City Triathlon	Nashville, TN	Cumberland River, Mile 189.7–192.3 (Tennessee).
34. 2 days—One weekend in July	Huntington Classic Regatta	Huntington, WV	Ohio River, Mile 307.3–309.3 (West Virginia).
35. 2 days—One weekend in July	Marietta Riverfront Roar Regatta	Marietta, OH	Ohio River, Mile 171.6–172.6 (Ohio).
36. 1 day—Last weekend in July or first weekend in August.	HealthyTriState.org/St. Marys Tri State Kayathalon.	Huntington, WV	Ohio River, Mile 305.1–308.3 (West Virginia).
37. 1 day—first Sunday in August	Above the Fold Events/Riverbluff Triathlon.	Ashland City, TN	Cumberland River, Mile 157.0–159.5 (Tennessee).
38. 3 days—First week of August	EQT Pittsburgh Three Rivers Regatta.	Pittsburgh, PA	Allegheny River mile 0.0–1.0, Ohio River mile 0.0–0.8, Monongahela River mile 0.5 (Pennsylvania).
39. 2 days—First weekend of August.	Thunder on the Bay/KDBA	Pisgah Bay, KY	Tennessee River, Mile 30.0 (Kentucky).
40. 1 day—First or second weekend in August.	Riverbluff Triathlon	Ashland City, TN	Cumberland River, Mile 157.0–159.0 (Tennessee).
41. 1 day—One of the first two weekends in August.	Green Umbrella/Ohio River Paddlefest.	Cincinnati, OH	Ohio River, Mile 458.5–476.4 (Ohio and Kentucky).
42. 2 days—Third full weekend (Saturday and Sunday) in August.	Ohio County Tourism/Rising Sun Boat Races.	Rising Sun, IN	Ohio River, Mile 504.0–508.0 (Indiana and Kentucky).
43. 3 days—Second or Third weekend in August.	Kittanning Riverbration Boat Races.	Kittanning, PA	Allegheny River mile 42.0–46.0 (Pennsylvania).
44. 3 days— One of the last two weekends in August.	Thunder on the Green	Livermore, KY	Green River, Mile 69.0–72.5 (Kentucky).
45. 1 day—Fourth weekend in August.	Team Rocket Tri-Club/Rocketman Triathlon.	Huntsville, AL	Tennessee River, Mile 332.2–335.5 (Alabama).
46. 1 day—Last weekend in August.	Tennessee Clean Water Network/Downtown Dragon Boat Races.	Knoxville, TN	Tennessee River, Mile 646.3–648.7 (Tennessee).
47. 3 days—One weekend in August.	Pro Water Cross Championships	Charleston, WV	Kanawha River, Mile 56.7–57.6 (West Virginia).

Date	Event/sponsor	Ohio Valley location	Regulated area
48. 2 days—One weekend in August.	POWERBOAT NATIONALS—Ravenswood Regatta.	Ravenswood, WV ..	Ohio River, Mile 220.5–221.5 (West Virginia).
49. 2 days—One weekend in August.	Powerboat Nationals-Parkersburg Regatta/Parkersburg Homecoming.	Parkersburg, WV ...	Ohio River Mile 183.5–285.5 (West Virginia).
50. 1 day—One weekend in August.	YMCA River Swim	Charleston, WV	Kanawha River, Mile 58.3–61.8 (West Virginia).
51. 3 days—One weekend in August.	Grand Prix of Louisville	Louisville, KY	Ohio River, Mile 601.0–605.0 (Kentucky).
52. 3 days—One weekend in August.	Evansville HydroFest	Evansville, IN	Ohio River, Mile 790.5–794.0 (Indiana).
53. 1 day— First or second weekend of September.	SUP3Rivers The Southside Outside.	Pittsburgh, PA	Monongahela River mile 0.0–3.09 Allegheny River mile 0.0–0.6 (Pennsylvania).
54. 1 day—First weekend in September or on Labor Day.	Mayor's Hike, Bike and Paddle ...	Louisville, KY	Ohio River, Mile 601.0–610.0 (Kentucky).
55. 2 days—Sunday before Labor Day and Labor Day.	Cincinnati Bell, WEBN, and Proctor and Gamble/Riverfest.	Cincinnati, OH	Ohio River, Mile 463.0–477.0 (Kentucky and Ohio) and Licking River Mile 0.0–3.0 (Kentucky).
56. 2 days—Labor Day weekend	Wheeling Vintage Race Boat Association Ohio/Wheeling Vintage Regatta.	Wheeling, WV	Ohio River, Mile 90.4–91.5 (West Virginia).
57. 2 days— One of the first three weekends in September.	Louisville Dragon Boat Festival ..	Louisville, KY	Ohio River, Mile 602.0–604.5 (Kentucky).
58. 1 day—One of the first three weekends in September.	Cumberland River Compact/Cumberland River Dragon Boat Festival.	Nashville, TN	Cumberland River, Mile 189.7–192.1 (Tennessee).
59. 2 days—One of the first three weekends in September.	State Dock/Cumberland Poker Run.	Jamestown, KY	Lake Cumberland (Kentucky).
60. 3 days— One of the first three weekends in September.	Fleur de Lis Regatta	Louisville, KY	Ohio River, Mile 600.0–605.0 (Kentucky).
61. 1 day—Second weekend in September.	City of Clarksville/Clarksville Riverfest Cardboard Boat Regatta.	Clarksville, TN	Cumberland River, Mile 125.0–126.0 (Tennessee).
62. 1 Day—One Sunday in September.	Ohio River Sternwheel Festival Committee Sternwheel race reenactment.	Marietta, OH	Ohio River, Mile 170.5–172.5 (Ohio).
63. 1 Day—One weekend in September.	Parkesburg Paddle Fest	Parkersburg, WV ...	Ohio River, Mile 184.3–188 (West Virginia).
64. 2 days—One of the last three weekends in September.	Madison Vintage Thunder	Madison, IN	Ohio River, Mile 556.5–559.5 (Indiana).
65. 1 day—Third Sunday in September.	Team Rocket Tri Club/Swim Hobbs Island.	Huntsville, AL	Tennessee River, Mile 332.3–338.0 (Alabama).
66. 1 day—Fourth or fifth weekend in September.	Knoxville Open Water Swimmers/Bridges to Bluffs.	Knoxville, TN	Tennessee River, Mile 641.0–648.0 (Tennessee).
67. 1 day—Fourth or fifth Sunday in September.	Green Umbrella/Great Ohio River Swim.	Cincinnati, OH	Ohio River, Mile 468.8–471.2 (Ohio and Kentucky).
68. 1 day—One of the last two weekends in September.	Ohio River Open Water Swim	Prospect, KY	Ohio River, Mile 587.0–591.0 (Kentucky).
69. 2 days—One of the last three weekends in September or the first weekend in October.	Captain Quarters Regatta	Louisville, KY	Ohio River, Mile 594.0–598.0 (Kentucky).
70. 3 days—One of the last three weekends in September or one of the first two weekends in October.	Owensboro Air Show	Owensboro, KY	Ohio River, Mile 754.0–760.0 (Kentucky).
71. 1 day—Last weekend in September.	World Triathlon Corporation/IRONMAN Chattanooga.	Chattanooga, TN ...	Tennessee River, Mile 462.7–467.5 (Tennessee).
72. 3 Days-Last weekend of September and/or first weekend in October.	New Martinsville Records and Regatta Challenge Committee.	New Martinsville, WV.	Ohio River, Mile 128–129 (West Virginia).
73. 2 days—First weekend of October.	Three Rivers Rowing Association/Head of the Ohio Regatta.	Pittsburgh, PA	Allegheny River mile 0.0–5.0 (Pennsylvania).
74. 1 day—First or second weekend in October.	Lookout Rowing Club/Chattanooga Head Race.	Chattanooga, TN ...	Tennessee River, Mile 463.0–468.0 (Tennessee).
75. 3 days—First or Second weekend in October.	Vanderbilt Rowing/Music City Head Race.	Nashville, TN	Cumberland River, Mile 189.5–196.0 (Tennessee).
76. 2 days— One of the first three weekends in October.	Norton Healthcare/Ironman Triathlon.	Louisville, KY	Ohio River, Mile 600.5–605.5 (Kentucky).
77. 3 days—First weekend in November.	Atlanta Rowing Club/Head of the Hooch Rowing Regatta.	Chattanooga, TN ...	Tennessee River, Mile 463.0–468.0 (Tennessee).
78. 1 day—One weekend in November or December.	Charleston Lighted Boat Parade	Charleston, WV	Kanawha River, Mile 54.3–60.3 (West Virginia).

Dated: March 21, 2019.

M.B. Zamperini,

Captain, U.S. Coast Guard, Captain of the Port, Sector Ohio Valley.

[FR Doc. 2019–05901 Filed 3–27–19; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2019–0120]

RIN 1625–AA09

Drawbridge Operation Regulation; River Rouge, Detroit, MI

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to authorize the Conrail Railroad Bridge, mile 1.48, across the River Rouge, to be operated remotely. The request was made by the bridge owner. This proposed rule will test the remote operations with tenders onsite, and will not change the operating schedule of the bridge.

DATES: Comments and related material must reach the Coast Guard on or before September 24, 2019.

ADDRESSES: You may submit comments identified by docket number USCG–2019–0120 using Federal eRulemaking Portal at *http://www.regulations.gov.*

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

FOR FURTHER INFORMATION CONTACT: If you have questions on this proposed rule, call or email Mr. Lee D. Soule, Bridge Management Specialist, Ninth Coast Guard District; telephone 216–902–6085, email *Lee.D.Soule@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
DHS Department of Homeland Security
FR Federal Register
IGLD85 International Great Lakes Datum of 1985
LWD Low Water Datum based on IGLD 85
OMB Office of Management and Budget
NPRM Notice of Proposed Rulemaking (Advance, Supplemental)
§ Section
U.S.C. United States Code

II. Background, Purpose and Legal Basis

The River Rouge discharges into the Detroit River at the south end of the city of Detroit, about 2 miles above Fighting Island. A Federal project has improved River Rouge to create a turning basin about 2.5 miles above the entrance. With the exception of a few pleasure vessels the channel is almost exclusively used by large commercial vessels to access various industries along the river. All four drawbridges over the river are required to open on signal and are manned 24-hours a day, 7-days a week. The River Rouge supports foreign and domestic trade in steel production, cement, petroleum refinery, aggregate, and other bulk commodities imported or exported by vessels. The River Rouge is not listed as an American Heritage River; however, the Detroit River is designated an American Heritage River and a Canadian Heritage River.

The Conrail Railroad Bridge is a single leaf bascule bridge. A horizontal navigation clearance of 123 feet is available. Eight feet of vertical clearance, referred to LWD is available in the closed position. The Conrail Bridge is advertised as having unlimited clearance in the open position; however, the tip of the bridge leaf does encroach slightly into the northern boundary of the navigation channel. The Federal Channel has a bend in the river immediately west of the Conrail Bridge. Because of this bend most large commercial vessels will not enter the river unless they have conformation that this bridge is opened.

The Coast Guard is issuing this NPRM under authority 33 U.S.C. 499.

III. Discussion of Proposed Rule

This notice proposes a new rule for the regulations to allow the Conrail Bridge to operate remotely.

Bridge owners are required to provide necessary drawtenders for the safe and prompt opening of a bridge and to respond to visual, sound, or radiotelephone communications for openings; unless, authorized by the U.S. Coast Guard District Commander to operate remotely.

Conrail installed the following equipment at the bridge to be considered for remote operations: A public address system that allows 2-way voice communication between vessels and the remote tender; eight digital cameras; two thermal imagery cameras looking upriver and downriver to detect vessels in reduced visibility; and remotely operated VHF–FM Marine Radiotelephone that monitors Channel 16 and Channel 12. All of the listed equipment uses fiber optic technologies to connect to the remote tender. During the comment period a tender will be required to be physically at the bridge to evaluate the remote operations and to intervene if there is a failure in the remote abilities. If this rule is approved, then the bridge will be operated remotely from Mount Laurel, NJ but can also be operated from Detroit, MI, if needed. If there is a discrepancy with the remote equipment Conrail estimates it will take 60-minutes for a tender to arrive at the bridge.

IV. Regulatory Analyses

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

A. Regulatory Planning and Review

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

This regulatory action determination is based on the ability that vessels can still transit the bridge and the bridge will continue to open on signal.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities. While some owners or operators of vessels intending to transit the bridge may be small entities, for the reasons stated in section IV.A above this proposed rule would not have a significant economic impact on any vessel owner or operator because the bridge will continue to open on signal.

If you think that your business, organization, or governmental

jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT**, above. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

C. Collection of Information

This proposed rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520.).

D. Federalism and Indian Tribal Government

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

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

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. This proposed rule simply promulgates the operating regulations or procedures for drawbridges. Normally such actions are categorically excluded from further review, under figure 2–1, paragraph (32)(e), of the Instruction.

A preliminary Record of Environmental Consideration and a Memorandum for the Record are not required for this proposed rule. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

G. Protest Activities

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

V. Public Participation and Request for Comments

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

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

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

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

List of Subjects in 33 CFR Part 117

Bridges.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

■ 1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 33 CFR 1.05–1; and Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 117.645 to part 117 to read as follows:

§ 117.645 River Rouge

The draw of the Conrail Bridge, mile 1.48, is remotely operated, is required to operate a radiotelephone, and shall open on signal.

Dated: March 22, 2019.

J.M. Nunan,

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

[FR Doc. 2019–05908 Filed 3–27–19; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2018–0760; FRL–9991–45–Region 4]

Air Plan Approval; North Carolina; Revision To Permit Term for Non-Title V Air Quality Permits

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a State Implementation Plan (SIP) revision provided by the State of North Carolina, through the North Carolina Department of Environmental Quality, Division of Air Quality (NCDAQ), on January 12, 2018. The SIP revision makes changes to the State's combined construction and operating permit program for non-Title V sources. EPA is proposing to approve the revision to the North Carolina SIP because it is consistent with the Clean Air Act (CAA or Act).

DATES: Comments must be received on or before April 29, 2019.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R04–OAR–2018–0760 at *http://www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Evan Adams of the Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW, Atlanta, Georgia 30303–8960. Mr. Adams can be reached by telephone at (404) 562–9009, or via electronic mail at *adams.evan@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background and Analysis

North Carolina has a SIP-approved construction and operating permit program at 15 North Carolina Administrative Code (NCAC) 02Q.0300—*Construction and Operation Permits.*[1] These regulations set forth the State's process for issuing combined construction and operating permits. They do not apply to Title V permits issued by NCDAQ. *See* 15A NCAC 02Q.0301(a).

On January 12, 2018, NCDAQ submitted a SIP revision to 15 NCAC 02Q.0308—*Final Action on Permit Applications,* which was state effective on January 1, 2015.[2] The January 12, 2018, submittal requests minor typographical/administrative edits to 15 NCAC 02Q.0308. For example, the submittal fixes a grammar error in 15 NCAC 02Q.0308(b) by replacing the word ''which'' with the word ''that'' in the first sentence. In addition, the submittal changes the permit term (duration) for combined construction and operating permits from five years, or less as determined reasonable by the Director, to eight years. This permit term in Section .0308 affects only minor sources because sources subject to Title V (*i.e.,* major sources) are subject to the separate operating permit term provisions of North Carolina's Title V program.

II. EPA's Action

In this action, EPA is proposing to approve changes to 02Q Section .0308, *Final Action on Permit Applications,* included in the January 12, 2018, submittal. EPA has preliminarily concluded that the minor typographical/administrative edits are approvable because they do not alter the meaning of the rule, and that the revision to the permit term is approvable because it is not inconsistent with the Act, including the Agency's preconstruction review requirements at 40 CFR 51.160–164. EPA notes that the revision merely changes the duration of the permit from five years to eight years and does not affect any emission limits or other permit conditions. Thus, EPA does not believe the revision will interfere with any applicable requirement concerning attainment and reasonable further progress, or any other applicable requirement of the Act. EPA is accordingly proposing to approve the changes included in the January 12, 2018, submittal.

III. 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 under Subchapter 02Q, *Air Quality Permits* of the North Carolina SIP, Section .0308, titled *Final Action of Permit Applications,* state effective January 1, 2015, which revises the permit renewal period for non-title V permits to eight years, and makes other administrative/typographical edits. EPA has made, and will continue to make, these materials generally available through *www.regulations.gov* and at the EPA Region 4 office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

IV. Proposed Action

EPA is proposing to approve the SIP revision submitted by the NCDAQ on January 12, 2018, consisting of changes to 15 NCAC 02Q.0308, state effective January 1, 2015. These changes modify the permit term for non-title V combined construction and operating permits and make other typographical/administrative edits.

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

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- 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);

[1] In the table of North Carolina regulations federally approved into the SIP at 40 CFR 52.1770(c), 15A NCAC 02Q is referred to as ''Subchapter 2Q—Air Quality Permits.''

[2] EPA received this SIP revision on February 2, 2018.

• Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

• Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

• Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

• Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and

• Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

The SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 52

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

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

Dated: March 18, 2019.

Mary S. Walker,

Acting Regional Administrator, Region 4.

[FR Doc. 2019–05979 Filed 3–27–19; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R06–OAR–2015–0426; FRL–9990–62–Region 6]

Air Plan Approval; Arkansas; Regional Haze Five-Year Progress Report State Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: Pursuant to the Federal Clean Air Act (CAA or the Act), the Environmental Protection Agency (EPA) is proposing to approve a State Implementation Plan (SIP) submitted by the Governor through the Arkansas Department of Environmental Quality (ADEQ) on June 2, 2015. The SIP submittal addresses requirements of the federal regulations that direct the State to submit a periodic report that assesses progress toward reasonable progress goals (RPGs) established for regional haze with a determination of adequacy of the existing implementation plan.

DATES: Written comments must be received on or before April 29, 2019.

ADDRESSES: Submit comments, identified by Docket No. EPA–R06–OAR–2015–0426, at *https://www.regulations.gov* or via email to *grady.james@epa.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. The EPA may publish any comment received to its public docket. Do not submit any information electronically that is considered 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 with multimedia submissions and should include all discussion points desired. The EPA will generally not consider comments or their contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing systems). For additional submission methods, please contact James E. Grady, (214) 665–6745, *grady.james@epa.gov.* For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www.epa.gov/dockets/commenting-epa-dockets.*

Docket: The index to the docket for this action is available electronically at *www.regulations.gov* and in hard copy at the EPA Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (*e.g.,* copyrighted material), and some may not be publicly available at either location (*e.g.,* CBI).

FOR FURTHER INFORMATION CONTACT: James E. Grady, (214) 665–6745; *grady.james@epa.gov.* To inspect the hard copy materials, please schedule an appointment with Mr. Grady or Mr. Bill Deese at 214–665–7253.

SUPPLEMENTARY INFORMATION: Throughout this document ''we,'' ''us,'' or ''our'' each mean ''the EPA.''

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J. Consultation With Federal Land Managers
III. The EPA's Proposed Action
IV. Statutory and Executive Order Reviews

I. Background

A. The Regional Haze Program

Regional haze is visibility impairment that occurs over a wide geographic area primarily from the pollution of fine particles ($PM_{2.5}$) emitted into the air.[1] Fine particles causing haze consist of sulfates (SO_4^{2-}), nitrates (NO_3^-), organics, elemental carbon (EC), and soil dust.[2] Airborne $PM_{2.5}$ can scatter

[1] Fine particles are less than or equal to 2.5 microns (μm) in diameter and usually form secondary in nature indirectly from other sources. Particles less than or equal to 10 μm in diameter are referred to as PM_{10}. Particles greater than $PM_{2.5}$ but less than PM_{10} are referred to as coarse mass. Coarse mass can contribute to light extinction as well and is made up of primary particles directly emitted into the air. Fine particles tend to be man-made, while coarse particles tend to have a natural origin. Coarse mass settles out from the air more rapidly than fine particles and usually will be found relatively close to emission sources. Fine particles can be transported long distances by wind and can be found in the air thousands of miles from where they were formed.

[2] Organic carbon (OC) can be emitted directly as particles or formed through reactions involving gaseous emissions. Elemental carbon, in contrast to organic carbon, is exclusively of primary origin and emitted by the incomplete combustion of carbon-based fuels. Elemental carbon particles are

Continued

and absorb the incident light and, therefore, lead to atmospheric opacity and horizontal visibility degradation. Regional haze limits visual distance and reduces color, clarity, and contrast of view. $PM_{2.5}$ can cause serious adverse health effects and mortality in humans. It also contributes to environmental effects such as acid deposition and eutrophication. Emissions that affect visibility include a wide variety of natural and man-made sources. Reducing $PM_{2.5}$ and its precursor gases in the atmosphere is an effective method of improving visibility. $PM_{2.5}$ precursors consist of sulfur dioxide (SO_2), nitrogen oxides (NO_X), ammonia (NH_3), and volatile organic compounds (VOCs).

Data from the existing visibility monitoring network, ''Interagency Monitoring of Protected Visual Environments'' (IMPROVE), shows that visibility impairment caused by air pollution occurs virtually all of the time at most national parks and wilderness areas. In 1999, the average visual range [3] in many Class I areas (*i.e.,* national parks and memorial parks, wilderness areas, and international parks meeting certain size criteria) in the western United States was 100–150 kilometers (km), or about one-half to two-thirds of the visual range that would exist under estimated natural conditions.[4] In most of the eastern Class I areas of the United States, the average visual range was less than 30 km, or about one-fifth of the visual range that would exist under estimated natural conditions. CAA programs have reduced emissions of some haze-causing pollution, lessening some visibility impairment and resulting in partially improved average visual ranges.[5]

In section 169A of the 1977 CAA Amendments, Congress created a program for protecting visibility in the nation's national parks and wilderness areas. This section of the CAA establishes as a national goal the prevention of any future, and the remedying of any existing, visibility impairment in mandatory Class I Federal areas where impairment results from manmade air pollution.[6] Congress added section 169B to the CAA in 1990 that added visibility protection provisions, and the EPA promulgated final regulations addressing regional haze as part of the 1999 Regional Haze Rule, which was most recently updated in 2017.[7] The Regional Haze Rule revised the existing 1980 visibility regulations and established a more comprehensive visibility protection program for Class I areas. The requirements for regional haze, found at 40 CFR 51.308 and 51.309, are included in the EPA's broader visibility protection regulations at 40 CFR 51.300–309. The regional haze regulations require states to demonstrate reasonable progress toward meeting the national goal of a return to natural visibility conditions for Class I areas both within and outside states by 2064. The CAA requirement in section 169A(b)(2) to submit a regional haze SIP applies to all fifty states, the District of Columbia, and the Virgin Islands. States were required to submit the first implementation plan addressing visibility impairment caused by regional haze no later than December 17, 2007.[8]

Section 169A(b)(2)(A) of the CAA directs states to evaluate the use of Best Available Retrofit Technology (BART) controls at certain categories of existing major stationary sources [9] built between 1962 and 1977. These large, often under-controlled, older stationary sources are required to procure, install, and operate BART controls to address visibility impacts from them. Under the Regional Haze Rule, any of these BART-eligible sources [10] that are reasonably anticipated to cause or contribute to visibility impairment in a Class I area are determined to be subject-to-BART.[11] States are directed to conduct BART determinations for each source classified as subject-to-BART. 40 CFR 51.308(e)(1)(ii)(A) requires states (or EPA in the case of a FIP) to identify the level of control representing BART after considering the five statutory factors set out in CAA section 169A(g)(2). States must establish emission limits, a schedule of compliance, and other measures consistent with the BART determination process for each source subject-to-BART. In lieu of requiring source-specific BART controls, states also have the flexibility to adopt alternative measures, as long as the alternative provides greater reasonable progress toward improving visibility than BART. Namely, the alternative must be ''better than BART.'' [12]

B. Previous Actions on Arkansas Regional Haze

Arkansas submitted a regional haze SIP on September 9, 2008, to address the requirements of the first regional haze implementation period. On August 3, 2010, the State submitted a SIP revision with mostly non-substantive changes that addressed Arkansas Pollution Control and Ecology Commission (APCEC) Regulation 19 Chapter 15.[13] On September 27, 2011, the State submitted supplemental information to address the regional haze requirements. The EPA collectively refers to the original 2008 submittal and these revisions together as the 2008 Arkansas Regional Haze SIP. On March 12, 2012, the EPA partially approved and partially disapproved the 2008 Arkansas Regional Haze SIP.[14] Specifically, the EPA disapproved

especially prevalent in diesel exhaust and smoke from wild and prescribed fires.

[3] Visual range is the greatest distance, in km or miles, at which a dark object can be viewed against the sky by a typical observer.

[4] 64 FR 35715 (July 1, 1999).

[5] An interactive ''story map'' depicting efforts and recent progress by EPA and states to improve visibility at national parks and wilderness areas may be visited at: *http://arcg.is/29tAbS3.*

[6] Mandatory Class I Federal areas consist of national parks exceeding 6,000 acres, wilderness areas and national memorial parks exceeding 5,000 acres, and all international parks that were in existence on August 7, 1977. The EPA, in consultation with the Department of Interior, promulgated a list of 156 areas where visibility was identified as an important value. The extent of a mandatory Class I area includes subsequent changes in boundaries, such as park expansions. Although states and tribes may designate additional areas as Class I, the requirements of the visibility program set forth in the CAA applies only to ''mandatory Class I Federal areas.'' Each mandatory Class I Federal area is the responsibility of a ''Federal Land Manager.'' When the term ''Class I area'' is used in this action, it means ''mandatory Class I Federal areas.'' [See 44 FR 69122, November 30, 1979 and CAA Sections 162(a), 169A, and 302(i)].

[7] See the July 1, 1999 Regional Haze Rule final action (64 FR 35714), as amended on July 6, 2005 (70 FR 39156), October 13, 2006 (71 FR 60631), June 7, 2012 (77 FR 33656) and on January 10, 2017 (82 FR 3079).

[8] See 40 CFR 51.308(b). The EPA's regional haze regulations require subsequent updates to the regional haze SIPs. 40 CFR 51.308(g)–(i).

[9] See 42 U.S.C. 7491(g)(7) (listing the set of ''major stationary sources'' potentially subject-to-BART).

[10] See 40 CFR 51 Appendix Y, II. How to Identify BART-eligible Sources.

[11] Under the BART Guidelines, states may select a visibility impact threshold, measured in deciviews (dv), below which a BART-eligible source would not be expected to cause or contribute to visibility impairment in any Class I area. The state must document this threshold in the SIP and state the basis for its selection of that value. Any source with visibility impacts that model above the threshold value would be subject to a BART determination review. The BART Guidelines acknowledge varying circumstances affecting different Class I areas. States should consider the number of emission sources affecting the Class I areas at issue and the magnitude of the individual sources' impacts. Any visibility impact threshold set by the state should not be higher than 0.5 dv. See 40 CFR 51, Appendix Y, section III.A.1.

[12] The required content of BART alternative measures is codified at 40 CFR 51.308(e)(2).

[13] The September 9, 2008 SIP submittal included APCEC Regulation 19, Chapter 15, which is the state regulation that identified the BART-eligible and subject-to-BART sources in Arkansas and established BART emission limits for subject-to-BART sources. The August 3, 2010 SIP revision did not revise Arkansas' list of BART-eligible and subject-to-BART sources or revise any of the BART requirements for affected sources. Instead, it included mostly non-substantive revisions to the state regulation.

[14] See the final action on March 12, 2012 (77 FR 14604).

certain BART compliance dates; the State's identification of certain BART-eligible sources and subject-to-BART sources; certain BART determinations for NO_X, SO_2, and PM; the State's reasonable progress analysis and RPGs; and a portion of the State's long-term strategy (LTS). The remaining provisions of the 2008 Arkansas Regional Haze SIP were approved. The final partial disapproval started a two-year federal implementation plan (FIP) clock that obligated the EPA to either approve a SIP revision or promulgate a FIP to address the disapproved portions of the action.[15] Because a SIP revision was not received and since the FIP clock expired in April 2014, the EPA promulgated a FIP (the Arkansas Regional Haze FIP) on September 27, 2016 to address the disapproved portions of the 2008 Arkansas Regional Haze SIP.[16] Among other things, the FIP established SO_2, NO_X, and PM emission limits under the BART requirements for nine units at six facilities: Arkansas Electric Cooperative Corporation (AECC) Carl E. Bailey Plant Unit 1 Boiler; AECC John L. McClellan Plant Unit 1 Boiler; SWEPCO Flint Creek Plant Boiler No. 1; Entergy Lake Catherine Plant Unit 4 Boiler; Entergy White Bluff Plant Units 1 and 2 Boilers and the Auxiliary Boiler; and the Domtar Ashdown Mill Power Boilers No. 1 and 2. The FIP also established SO_2 and NO_X emission limits under the reasonable progress requirements for the Entergy Independence Plant Units 1 and 2.

Following petitions for reconsideration [17] submitted by the State, industry, and ratepayers, the EPA issued a partial administrative stay of the effectiveness of the FIP for ninety days on April 25, 2017.[18] During that period, on July 12, 2017, the State submitted a proposed SIP submittal (the Arkansas Regional Haze NO_X SIP revision) to address NO_X BART requirements for all EGUs and the reasonable progress requirements with respect to NO_X. These NO_X provisions were previously disapproved by the EPA in our 2012 final action for the 2008 Arkansas Regional Haze SIP. The Arkansas Regional Haze NO_X SIP submittal replaced all source-specific NO_X BART determinations established in the FIP with reliance upon the Cross-State Air Pollution Rule (CSAPR) emissions trading program for ozone (O_3) season NO_X as an alternative to NO_X BART. The SIP submittal addressed the NO_X BART requirements for Bailey Unit 1, McClellan Unit 1, Flint Creek Boiler No. 1, Lake Catherine Unit 4; White Bluff Units 1 and 2, and the Auxiliary Boiler. The revision did not address NO_X BART for Domtar Ashdown Mill Power Boilers No. 1 and 2. On February 12, 2018, we took final action to approve the Arkansas Regional Haze NO_X SIP revision and to withdraw the corresponding parts of the FIP.[19]

The State submitted another SIP revision (the Arkansas Regional Haze SO_2 and PM SIP revision) on August 8, 2018, that addressed most of the remaining parts of the 2008 Arkansas Regional Haze SIP disapproved in 2012. The August 8, 2018 SIP submittal was intended to replace the federal SO_2 and PM BART determinations for EGUs as well as the reasonable progress determinations established in the FIP with the State's own determinations. Specifically, the SIP revision addressed the applicable SO_2 and PM BART requirements for Bailey Unit 1; SO_2 and PM BART requirements for McClellan Unit 1; SO_2 BART requirements for Flint Creek Boiler No. 1; SO_2 BART requirements for White Bluff Units 1 and 2; SO_2, NO_X, and PM BART requirements for the White Bluff Auxiliary Boiler; [20] and Lake Catherine Unit 4. The submittal addressed the reasonable progress requirements for Independence Units 1 and 2 and all other sources in Arkansas. In addition, it established revised RPGs for Arkansas' two Class I areas and revised the State's long-term strategy provisions. The submittal did not address BART and associated long-term strategy requirements for Domtar Ashdown Mill Power Boilers No. 1 and 2. On November 30, 2018, we proposed approval of the Arkansas Regional Haze SO_2 and PM SIP revision and to withdraw the corresponding parts of the FIP.[21]

C. Arkansas' Regional Haze Progress Report SIP Revision

Under 40 CFR 51.308(g), each state is required to submit a progress report that evaluates progress toward the RPGs for each Class I area within the state and each Class I area outside the state which may be affected by emissions from within the state. In addition, 40 CFR 51.308(h) requires states to submit, at the same time as the progress report, a determination of adequacy of the existing regional haze implementation plan.[22] The progress report for the first planning period is due five years after submittal of the initial regional haze SIP and must take the form of a SIP revision. Arkansas submitted its initial regional haze SIP on September 9, 2008.

On June 2, 2015, Arkansas submitted its progress report to the EPA in the form of a SIP revision under 40 CFR 51.308. As described in further detail in section II of this proposed rulemaking, to address the progress report requirements, the State provided: (1) A description of the status of measures in the approved regional haze SIP; (2) a summary of emission reductions achieved; (3) an assessment of visibility conditions for each Class I area in the state (and for two Class I areas in Missouri); (4) an analysis tracking the changes in emissions from sources and activities within the state; (5) an assessment of any significant changes in anthropogenic emissions within or outside the state that have limited or

[15] Under CAA section 110(c), EPA is required to promulgate a FIP within 2 years of the effective date of a finding that a state has failed to make a required SIP submission or has made an incomplete submission, or of the date that EPA disapproves a SIP in whole or in part. The FIP requirement is terminated only if a state submits a SIP, and EPA approves that SIP as meeting applicable CAA requirements before promulgating a FIP. CAA section 302(y) defines the term ''federal implementation plan'' in pertinent part, as a plan (or portion thereof) promulgated by EPA ''to fill all or a portion of a gap or otherwise correct all or a portion of an inadequacy'' in a SIP, and which includes enforceable emission limitations or other control measures, means or techniques (including economic incentives, such as marketable permits or auctions or emissions allowances).

[16] See FIP final action (81 FR 66332) as corrected on October 4, 2016 (81 FR 68319).

[17] See the docket associated with this proposed rulemaking for a copy of the petitions for reconsideration and administrative stay submitted by the State of Arkansas; Entergy Arkansas Inc., Entergy Mississippi Inc., and Entergy Power LLC (collectively ''Entergy''); AECC; and the Energy and Environmental Alliance of Arkansas (EEAA).

[18] 82 FR 18994.

[19] See 82 FR 42627 (September 11, 2017) for the proposed approval. See also 83 FR 5915 and 83 FR 5927 (February 12, 2018) for the final action.

[20] The Arkansas Regional Haze SO_2 and PM SIP revision established a new NO_X emission limit of 32.2 pph for the Auxiliary Boiler to satisfy NO_X BART and replace the SIP determination that we previously approved in the Arkansas Regional Haze NO_X SIP revision. In the Arkansas Regional Haze NO_X SIP revision, ADEQ incorrectly identified the Auxiliary Boiler as participating in the CSAPR trading program for O_3 season NO_X to satisfy the NO_X BART requirements but the new source specific NO_X BART emission limit corrects that error.

[21] See 83 FR 62204 (November 30, 2018) for proposed approval. The Arkansas Regional Haze SO_2 and PM SIP revision also addressed separate CAA requirements related to interstate visibility transport under CAA section 110(a)(2)(D)(i)(II), but we did not propose action on that part of the submittal.

[22] The Regional Haze Rule requires states to provide in the progress report an assessment of whether the current ''implementation plan'' is sufficient to enable the states to meet all established RPGs under 40 CFR 51.308(g). The term ''implementation plan'' is defined for purposes of the Regional Haze Rule to mean any SIP, FIP, or Tribal Implementation Plan. As such, the Agency may consider measures in any issued FIP as well as those in a state's regional haze plan in assessing the adequacy of the ''existing implementation plan'' under 40 CFR 51.308(g) and (h).

impeded progress in reducing pollutant emissions and improving visibility; (6) an assessment of whether the approved regional haze SIP elements and strategies are sufficient to enable the State (and other states with Class I areas affected by emissions from the state) to meet all established RPGs; (7) a review of the State's visibility monitoring strategy; and (8) a determination of adequacy of the existing implementation plan.

II. Evaluation of Arkansas' Regional Haze Progress Report SIP Revision

On June 2, 2015, the EPA received Arkansas' periodic report on progress for the State's regional haze SIP in the form of a SIP revision. That submission is the subject of this proposed approval. The periodic report for the first implementation period assessed visibility progress toward the 2018 RPGs for Class I areas in the state. It also assessed visibility progress in general for two Class I areas in Missouri that may be affected by emissions from within the state. The progress report asserted that Arkansas was committed to remedying the disapproved portions of the 2008 Arkansas Regional Haze SIP submission. At this time, the Arkansas Regional Haze NO_X SIP revision,[23] the Arkansas Regional Haze SO_2 and PM SIP revision (if EPA's proposed approval is finalized),[24] and the remaining part of the FIP that addresses the BART and associated long-term strategy requirements for Domtar together fully address the deficiencies of the 2008 Arkansas Regional Haze SIP. These deficiencies were previously identified in 2012 by the EPA and acknowledged by ADEQ in its June 2, 2015 progress report SIP. The 2018 Arkansas Regional Haze SO_2 and PM SIP submission provides more recent visibility information in addition to the visibility data presented by ADEQ in the 2015 progress report. The recent data shows visibility improvement that is exceeding the revised visibility goals set for 2018 for the Arkansas Class I areas. Furthermore, up-to-date emission trends indicate that SO_2, NO_X, and PM emissions have all been decreasing. The EPA is, therefore, proposing to approve Arkansas' progress report on the basis that it satisfies the requirements of 40 CFR 51.308(g) and (h), as explained in further detail in each subsequent section.

A. Class I Areas

Arkansas has two Class I areas within its borders that are addressed in the progress report: Upper Buffalo and Caney Creek Wilderness areas.[25] Visibility impairment at Arkansas' two Class I areas was tracked in units of deciviews,[26] which is related to the cumulative sum of visibility impairment from individual aerosol species as measured by two monitors in the IMPROVE Network.

Through collaboration with the Central Regional Air Planning Association (CENRAP),[27] ADEQ worked with the central states to assess state-by-state contributions to visibility impairment in specific Class I areas in Arkansas and those affected by emissions from Arkansas. ADEQ used CENRAP as the main vehicle for developing its regional haze SIP for the first implementation period. The results reported by ADEQ in the progress report compared available monitored visibility conditions to improvements that were projected based on the technical analysis and emission inventories that were a part of the CENRAP modeling.[28] CENRAP generated regional photochemical modeling results, visibility projections, and source apportionment modeling to assist in identifying contributions to visibility impairment at Caney Creek and Upper Buffalo Wilderness Areas in Arkansas. ADEQ also indicated through CENRAP modeling results that two Class I areas outside Arkansas' borders at Hercules Glades and Mingo Wilderness areas in Missouri were impacted by emissions from within Arkansas. In the ensuing sections, we discuss how the State addressed the progress report requirements under 40 CFR 51.308(g) and (h) for these Class I areas, and we show our analysis and proposed determination as to whether the State satisfied the requirements.

B. Status of Implementation of Measures

The State evaluated the status of implementation of all measures in its 2008 Arkansas Regional Haze SIP in accordance with the requirements under 40 CFR 51.308(g).[29] These measures were designed to address sulfate, particulate organic matter, and nitrate, which are the three largest contributors[30] to visibility impairment at Upper Buffalo and Caney Creek Wilderness areas. Ammonium sulfate is primarily from SO_2 precursor emissions from EGU point sources;[31] nitrate is primarily from mobile and point sources emissions; and particulate organic matter is from area sources, particularly emissions from fires.[32] The major measures identified in the 2008 Arkansas Regional Haze SIP to control

[23] Final action approved on February 12, 2018 (83 FR 5927).

[24] See the EPA's proposed approval on November 30, 2018 (83 FR 62204). We note that in the event this proposed rule is not finalized, there is already FIP in place which addresses the previously identified deficiencies. Thus, regardless of whether the EPA finalizes the proposed approval of the Arkansas Regional Haze SO_2 and PM SIP revision, Arkansas will have an implementation plan in place that fully addresses the regional haze requirements for the first implementation period.

[25] Upper Buffalo Wilderness area, located in Newton County, Arkansas, is an oak-hickory forest with intermittent portions of shortleaf pine located in the Ozark National Forest and offers 12,108 acres of boulder strewn and rugged scenery along the Buffalo River. Caney Creek Wilderness is located in Polk County, Arkansas, and covers 14,460 acres on the southern edge of the Ouachita National Forest and protects a rugged portion of the Ouachita Mountains.

[26] A deciview is a haze index derived from calculated light extinction, such that uniform changes in haziness correspond to uniform incremental changes in perception across the entire range of conditions, from pristine to highly impaired. The preamble to the Regional Haze Rule provides additional details about the deciview (64 FR 35714, 35725, July 1, 1999).

[27] The CENRAP is a collaborative effort of tribal governments, state governments and various federal agencies representing the central states (Texas, Oklahoma, Louisiana, Arkansas, Kansas, Missouri, Nebraska, Iowa, Minnesota; and tribal governments included in these states) that provided technical and policy tools for the central states and tribes to comply with the EPA's Regional Haze regulations. Due to lack of funding, CENRAP subsequently ceased to function and Arkansas is communicating through the Central States Air Resource Agencies (CenSARA) with the other states that were part of CENRAP.

[28] See the technical support document (TSD) for CENRAP Emissions and Air Quality Modeling to Support Regional Haze State Implementation, found in Appendix 8.1 of the 2008 Arkansas Regional Haze SIP. The TSD can be found in the docket for the proposal at *http://www.regulations.gov.* The docket number is EPA–R06–OAR–2008–0727.

[29] The progress report was not required to include information on the status of implementation of measures that became part of the implementation plan after the submission of the progress report. However, the EPA is including a discussion of measures from the recent SIP submittals to complement the progress report and to provide up-to-date information since the progress report's submission in 2015. Concerning the aspects of the 2008 Arkansas Regional Haze SIP that had been disapproved by the EPA in 2012 before the 2015 submission of the progress report, none involved new SIP measures with compliance deadlines prior to the submission of the progress report. Thus, our 2012 disapprovals do not necessarily affect the progress report requirement regarding reporting on the status of implementation of measures included in the implementation plan.

[30] See Figures 2.1 and 2.2 from the 2015 regional haze progress report (pages 16–17) which shows the 2007 to 2011 five-year averages. The percent contributions of the major haze pollutant contributors for Caney Creek and Upper Buffalo are as follows: (65% and 56%) sulfate, (11% and 16%) nitrate, (15% and 18%) particulate organic matter, 10% attributed to both sites for coarse mass, EC, and soil.

[31] See Figure 2.3 of the progress report that shows Percent Contribution by Source to SO_2 Emissions in Arkansas for 2011: Non-EGU point sources account for 12 percent SO_2 emissions, fires account for 8 percent, and approximately one percent SO_2 emissions are made up of area and mobile sources (on- and off-road).

[32] See progress report SIP revision (page 16).

these pollutants and listed in the progress report are as follows:

- BART Controls
- Clean Air Interstate Rule (CAIR) and CSAPR
- Source Retirement and Replacement Schedules
- Agriculture and Forestry Smoke Management
- Additional Federal Programs

1. BART Controls

In the 2008 Arkansas Regional Haze SIP, the State determined that there were eighteen facilities in Arkansas with BART-eligible sources.[33] [34] The State chose to exempt those sources that did not contribute to visibility impairment by performing a source-specific screening analysis using CALPUFF modeling. After eliminating BART-eligible sources whose modeled contributions to visibility impairment were below the 0.5 dv threshold limit, nine boiler units from six different facilities were found to be subject-to-BART [35] and are reflected in Table 2.2 of the progress report.[36] In addition to these subject-to-BART units determined by the State in the 2008 Arkansas Regional Haze SIP, the progress report also included additional units from Georgia-Pacific Paper. As discussed in section I.B of this proposed action, the BART portion of the 2008 Arkansas Regional Haze SIP was partially approved and partially disapproved in our 2012 final action.[37] We approved Arkansas' identification of BART-eligible sources from the 2008 Arkansas Regional Haze SIP with the exception of Georgia-Pacific's 6A Boiler, which we found to be BART-eligible, instead of being excluded as stated by the State in the 2008 Arkansas Regional Haze SIP. The EPA also approved the State's identification of subject-to-BART sources, with the exception of the 6A and 9A Boilers at Georgia-Pacific, which we found to be subject-to-BART instead of exempt.[38] Because of this, the progress report included Georgia-Pacific's 6A and 9A Boilers as subject-to-BART at the time of its submittal in 2015. However, despite the EPA's previous disapproval of ADEQ's exemption finding, following the company's recent submission of additional technical information and analyses, the EPA ultimately agreed that Georgia Pacific's 6A and 9A Power Boilers are BART-eligible, but are not subject-to-BART. ADEQ provided documentation supporting this determination in Appendix A of the 2018 Arkansas Regional Haze SO_2 and PM SIP revision that the EPA proposed for approval on November 30, 2018. Therefore, the State's most recent identification of subject-to-BART units in the Arkansas Regional Haze SO_2 and PM SIP revision is the same as originally presented in the 2008 Arkansas Regional Haze SIP (see Table 1):

TABLE 1—SUBJECT-TO-BART UNITS IN ARKANSAS

Facility	Unit ID
SWEPCO Flint Creek Plant	Unit 1 Boiler.
Arkansas Electric Cooperative Corporation—Bailey Generating Station	Unit 1 Boiler.
Arkansas Electric Cooperative Corporation—John L. McClellan Generating Station	Unit 1 Boiler.
Entergy Lake Catherine Plant	Unit 4 Boiler.
Entergy White Bluff Plant	Unit 1 Boiler.
	Unit 2 Boiler.
	Auxiliary Boiler.
Domtar—Ashdown Mill	No. 1 Power Boiler.
	No. 2 Power Boiler.

ADEQ was unable to determine at the time of the progress report's submission when revisions to the 2012 disapproved portions of the SIP would be submitted to the EPA. ADEQ was working then with facilities and the EPA to develop the required five-factor analyses to address the disapproved BART determinations. Consequently, updated BART determinations and emission limits were not listed in the progress report by the State because they were not yet available. The BART determinations that were approved in 2012 were findings that the existing limitations met the BART requirements. Therefore, as of the submittal date of the progress report, there were not any new emission reductions from subject-to-BART sources in Arkansas due to implementation of BART limits more stringent than the existing limits. Accordingly, there were no required efforts to implement new measures on which the progress report was required to provide information. The EPA approved the following BART determinations in 2012 for the 2008 Arkansas Regional Haze SIP: PM determination on SWEPCO Flint Creek Plant Boiler No. 1; SO_2 and PM determinations for the natural gas firing scenario for Entergy Lake Catherine Plant Unit 4; PM determinations for both bituminous and sub-bituminous coal firing scenarios for Entergy White Bluff Plant Units 1 and 2; and PM determination for Domtar Ashdown Mill Power Boiler No. 1.[39]

Subsequent to the June 2015 progress report submittal, the EPA finalized a FIP in 2016 that established new BART emission limits for the 2012 disapproved determinations.[40] The FIP established SO_2, NO_X, and PM emission limits under the BART requirements for nine units at six facilities: SO_2, NO_X, and PM BART for AECC Bailey Plant Unit 1 and the AECC McClellan Plant Unit 1; SO_2 and NO_X BART for SWEPCO Flint Creek Plant Boiler No. 1; NO_X BART for the natural gas firing scenario for Entergy Lake Catherine Plant Unit 4;[41] SO_2 and NO_X BART for

[33] BART-eligible sources include certain categories of existing major stationary sources built between August 7, 1962 and August 7, 1977 and have potential emissions greater than 250 tons per year (tpy). See 40 CFR 51 Appendix Y, II. How to Identify BART-eligible Sources.

[34] See Table 9.1 of the 2008 Arkansas Regional Haze SIP (page 45).

[35] See Table 9.2 and Figure 9.2 of the 2008 Arkansas Regional Haze SIP (page 48).

[36] See Arkansas Regional Haze Progress Report (page 20).

[37] See the final action at 77 FR 14604, March 12, 2012.

[38] See 77 FR 14606.

[39] See Tables 4 and 5 from the proposal at 40 CFR 64186, 64210–64211 (October 17, 2011).

[40] See final action on September 27, 2016 (81 FR 66332) as corrected on October 4, 2016 (81 FR 68319).

[41] The 2012 action had disapproved SO_2, NO_X, and PM BART for the fuel oil firing scenario for the Entergy Lake Catherine Plant Unit 4, but a FIP BART determination was not established. Instead, Entergy committed to not burn fuel oil at Lake Catherine Unit 4 until final EPA approval of BART for SO_2 and PM for the fuel oil firing scenario. This commitment has now been made enforceable by the State through an Administrative Order that has been adopted and incorporated in the Arkansas Regional Haze SO_2 and PM SIP revision.

Entergy White Bluff Plant Units 1 and 2; SO_2, NO_X, and PM BART for Entergy White Bluff Plant Auxiliary Boiler; SO_2 and NO_X BART for Domtar Ashdown Mill Power Boiler No. 1; and SO_2, NO_X and PM BART for Domtar Ashdown Mill Power Boiler No. 2. The FIP also established SO_2 and NO_X emission limits under the reasonable progress requirements for Entergy Independence Units 1 and 2.

The State mentioned in the progress report that it was committed to correcting the 2012 disapproved portions of the 2008 Arkansas Regional Haze SIP. As described below and elsewhere, the State has made two submissions to fulfill this commitment. Each SIP revision contained updated BART determinations intended to replace the applicable FIP established limits from 2016.

First, on February 12, 2018, the EPA approved the 2017 Arkansas Regional Haze NO_X SIP revision.[42] That submittal addressed the NO_X BART determinations established in the FIP for the Arkansas subject-to-BART EGUs by replacing them with reliance upon the CSAPR emissions trading program for O_3 season NO_X as an alternative to source-specific NO_X BART. The Arkansas Regional Haze NO_X SIP revision also established that no new NO_X emission controls were required beyond participation in CSAPR for O_3 season NO_X for any source to achieve reasonable progress for the first implementation period.

Second, on August 8, 2018, the State submitted the Arkansas Regional Haze SO_2 and PM SIP revision. That submittal addressed all remaining disapproved parts of the 2008 Arkansas Regional Haze SIP, with exception of the BART and associated long-term strategy requirements for the Domtar Ashdown Mill Power Boilers No. 1 and 2. The majority of the BART determinations in that SIP revision were essentially identical to the BART determinations in the FIP except for different BART requirements for White Bluff units 1 and 2.[43] The submittal established that each White Bluff unit was to comply with an updated SO_2 BART emission limit of 0.60 lb/MMBtu. That is based on the use of low sulfur coal and an enforceable commitment to cease coal combustion by the end of 2028. The submittal also established a new NO_X emission limit of 32.2 pounds per hour (pph) to satisfy NO_X BART for White Bluff's auxiliary boiler, replacing the determination in the Arkansas Regional NO_X SIP revision (relying upon CSAPR to satisfy NO_X BART) that we previously approved. The State made all of these BART determinations enforceable through administrative orders.[44] The State determined that no additional SO_2 or PM controls beyond BART were necessary for reasonable progress during the first planning period.[45] The EPA proposed to approve a large portion of the SIP revision on November 30, 2018.[46]

The Arkansas Regional Haze NO_X SIP revision,[47] the Arkansas Regional Haze SO_2 and PM SIP revision (if EPA's proposed approval is finalized),[48] and the remaining part of the FIP that addresses the BART and associated long-term strategy requirements for Domtar together fully address the deficiencies of the 2008 Arkansas Regional Haze SIP previously identified in 2012 by the EPA. The EPA is collectively providing all of these updated BART determination emission limits in Table 2 below since they were not all available at the time of the progress report's submission.

TABLE 2—UPDATED BART DETERMINATIONS

Facility	Unit	BART emission limit		
		SO_2	NO_X	PM_{10}
SWEPCO Flint Creek Plant	Unit 1 Boiler	0.06 lb/MMBtu**	Reliance on Participation in CSAPR Trading Program for O_3 season NO_X to satisfy NO_X BART [a].	0.1 lb/MMBtu.*
Arkansas Electric Cooperative Corporation—Bailey Generating Station.	Unit 1 Boiler	Use fuel with sulfur limit of 0.5% by weight**.		Use fuel with sulfur limit of 0.5% by weight.**
Arkansas Electric Cooperative Corporation—John L. McClellan Generating Station.	Unit 1 Boiler.	Use fuel with sulfur limit of 0.5% by weight**.		Use fuel with sulfur limit of 0.5% by weight.**
Entergy—Lake Catherine	Unit 4 Boiler [b]	(Natural gas firing scenario) Burn natural gas only*.		(Natural gas firing scenario) 45 pph and burn natural gas only.*
Entergy—White Bluff	Unit 1 Boiler	0.60 lb/MMBtu †.		0.1 lb/MMBtu.*
	Unit 2 Boiler	0.60 lb/MMBtu†.		0.1 lb/MMBtu.*
	Auxiliary Boiler	105.2 pph**	32.2 pph***	4.5 pph.**
Domtar—Ashdown Mill	No. 1 Power Boiler	504 ppd ‡	207.4 pph ‡	0.07 lb/MMBtu.*

[42] See final action on February 12, 2018 for the Arkansas Regional Haze NO_X SIP revision (83 FR 5927).

[43] For the White Bluff units, the FIP required an SO_2 emission limit of 0.06 lb/MMBtu with a five-year compliance date, based on the installation of dry scrubbers. The Arkansas Regional Haze SO_2 and PM SIP revision does not require the SO_2 emission limit of 0.06 lb/MMBtu, but it does require that Entergy move forward with its announced plans to cease coal combustion at the White Bluff Units by 2028 and to meet an SO_2 emission limit of 0.60 lb/MMBtu in the interim. Once the units cease coal combustion, SO_2 emissions are expected to significantly decrease.

[44] The Administrative Orders can be found in the Arkansas Regional Haze SO_2 and PM BART SIP Revision.

[45] In the Arkansas Regional Haze SO_2 and PM SIP revision, part of ADEQ's basis for determining the sources to further evaluate under the four reasonable progress factors was analyses and determinations for whether sources were subject-to-BART in the first implementation period. For the Domtar facility in particular, the State relied on the fact that a FIP is in place to address the BART requirements. In our November 30, 2018 proposed approval (83 FR 62204), we proposed to agree that this is an appropriate basis on which we find that nothing further is needed for reasonable progress at this source. If ADEQ chooses to submit a future SIP revision to address BART requirements for Domtar Power Boilers No. 1 and No. 2, we will evaluate the SIP submittal at that time and also whether it addresses reasonable progress requirements.

[46] See proposed action on November 30, 2018 for the Arkansas Regional Haze SO_2 and PM SIP revision (83 FR 62204). Note that the SIP revision also addressed separate CAA requirements related to interstate visibility transport under CAA section 110(a)(2)(D)(i)(II), but we did not propose action on that part of the submittal.

[47] Final action approved on February 12, 2018 for the Arkansas Regional Haze NO_X SIP revision (83 FR 5927).

[48] In the event that this proposed rule is not finalized, we note that there is already a FIP in place which addresses the previously identified deficiencies.

TABLE 2—UPDATED BART DETERMINATIONS—Continued

Facility	Unit	BART emission limit		
		SO_2	NO_X	PM_{10}
	No. 2 Power Boiler ..	91.5 pph ‡	345 pph‡	PM standard under 40 CFR part 63, subpart DDDDD as revised.‡

* The EPA approved this BART limit in the March 12, 2012 final action (77 FR 14604).

** This BART limit established in the FIP will be replaced with the State's own identical limit pending final approval of the August 8, 2018 Arkansas Regional Haze SO_2 and PM SIP revision. See the EPA's proposed approval on November 30, 2018 (83 FR 62204).

*** Note that we previously withdrew the 32.2 pph NO_X limit from the FIP and approved Arkansas' reliance upon CSAPR to satisfy NO_X BART (83 FR 5927). However, ADEQ's identification of the Auxiliary Boiler as participating in CSAPR for O_3 season NO_X was in error. Therefore, we proposed to withdraw our prior approved determination of the State's reliance upon CSAPR and replace it with 32.2 pph NO_X to satisfy NO_X BART for the auxiliary boiler in our proposed approval of the Arkansas Regional Haze SO_2 and PM SIP revision. See the EPA's proposed approval of the Arkansas Regional Haze SO_2 and PM SIP revision on November 30, 2018 (83 FR 62204).

† This is a new revised BART limit proposed in the August 8, 2018 Arkansas Regional Haze SO_2 and PM SIP revision. See the EPA's proposed approval on November 30, 2018 (83 FR 62204).

‡ The EPA established this FIP BART limit on September 27, 2016. See final action (81 FR 66332) as corrected on October 4, 2016 (81 FR 68319).

[a] The EPA approved this BART alternative in the February 12, 2018 Arkansas Regional Haze NO_X SIP Revision final action (83 FR 5927).

[b] There is an enforceable ban (not a current BART Determination) by the State on burning fuel oil for Lake Catherine's unit 4 boiler until the EPA approves a SIP revision with BART determinations for the fuel oil firing scenario.

2. Reasonable Progress Source Controls

In the Arkansas Regional Haze NO_X SIP revision and the Arkansas Regional Haze SO_2 and PM SIP revision, ADEQ evaluated the need for additional source controls under the reasonable progress requirements. In determining reasonable progress, CAA section 169(A)(g)(1) requires states to examine the cost of compliance, the time necessary for compliance, energy and non-air quality environmental impacts, and remaining useful life. In the Arkansas Regional Haze NO_X SIP revision, the State determined that no additional NO_X controls beyond participation in CSAPR for O_3 season NO_X were necessary to satisfy the reasonable progress requirement with respect to NO_X for the first implementation period.[49] As discussed in Section II of our proposed action on the Arkansas Regional Haze SO_2 and PM SIP revision, ADEQ determined that no additional SO_2 and PM controls at Independence Units 1 and 2 or any other Arkansas sources are necessary under reasonable progress for the first implementation period.[50]

3. CAIR and CSAPR

In 2005, the EPA issued CAIR,[51] which participating states could rely on in lieu of BART for EGUs.[52] CAIR was designed to address power plant pollution transported from one state to another via a cap-and-trade system to reduce SO_2 and NO_X emissions as the target pollutants.[53] In December 2008, the D.C. Circuit remanded CAIR to the EPA, leaving existing CAIR programs in place while directing the EPA to replace them with a new rule.[54] Although CAIR was remanded, CAIR remained in effect at the time of the progress report's development and sources in Arkansas continued to comply with the state and federal requirements associated with CAIR. CAIR consisted of two phases of reductions for NO_X and SO_2. Phase I ran from 2009 to 2014 and Arkansas' NO_X budget amounted to 11,514 tons NO_X per annual O_3 season. Phase II begun in 2015 and was set to continue indefinitely with Arkansas' NO_X budget set at 9,116 tons NO_X per annual O_3 season. Table 2.3 of the progress report shows the NO_X O_3 season allocations distributed among the different Arkansas sources for the 2009 to 2017 time-period.

In 2011, the EPA finalized CSAPR to replace CAIR.[55] In 2012, the EPA published a final rule allowing states that participate in the CSAPR trading program to rely on CSAPR to satisfy BART for EGUs,[56] including states participating only for O_3 season NO_X.[57] CSAPR requires 28 eastern states to reduce power plant emissions that contribute to O_3 and $PM_{2.5}$ pollution in other states. The rule requires reductions in O_3 season NO_X emissions that cross state lines for certain states under the O_3 requirements, and reductions in annual SO_2 and NO_X emissions for certain states under the $PM_{2.5}$ requirements. The EPA set emission budgets for each state covered by CSAPR. Allowances are allocated to affected sources based on these state emission budgets.[58]

Since promulgating the use of CSAPR as an alternative to source-specific BART for EGUs, the EPA has promulgated an update to the CSAPR program with more stringent budgets.[59] The CSAPR update revised the O_3 season NO_X budget for Arkansas EGUs from 15,110 tons NO_X in 2015 to 12,048 tons NO_X (10,132 tons NO_X allocated to existing EGUs) in 2017 with a further reduction to 9,210 tons NO_X (7,781 tons NO_X allocated to existing EGUs) in 2018 and beyond.[60] Participation in CSAPR

[49] The EPA approved this in the February 12, 2018 Arkansas Regional Haze NO_X SIP Revision final action (83 FR 5927).

[50] See the EPA's proposed approval of the Arkansas Regional Haze SO_2 and PM SIP revision on November 30, 2018 (83 FR 62204).

[51] See 70 FR 25161 (May 12, 2005).

[52] See 70 FR 39104, 39139 (July 6, 2005).

[53] Although Arkansas was subject to certain NO_X requirements of CAIR, including the statewide O_3 season NO_X budget, it elected not to rely on CAIR in its 2008 Arkansas Regional Haze SIP to satisfy the NO_X BART requirement for its EGUs. Note that it would have been sufficient for Arkansas to rely on CAIR to satisfy NO_X BART.

[54] *North Carolina* v. *EPA,* 531 F.3d 896, 901 (D.C. Cir. 2008), *modified,* 550 F.3d 1176, 1178 (D.C. Cir. 2008).

[55] See 76 FR 48207 (August 8, 2011).

[56] See 77 FR 33642 (June 7, 2012).

[57] Arkansas EGUs are covered under CSAPR for O_3 season NO_X. See 76 FR 82219 (December 30, 2011).

[58] The rule provides flexibility to affected sources, allowing sources in each state to determine their own compliance path. This includes adding or operating control technologies, upgrading or improving controls, switching fuels, and using allowances. Sources can buy and sell allowances and bank (save) allowances for future use as long as each source holds enough allowances to account for its emissions by the end of the compliance period.

[59] See 81 FR 74504. On October 26, 2016, we finalized an update to CSAPR that addresses the 1997 O_3 NAAQS portion of the remand as well as the CAA requirements addressing interstate transport for the 2008 O_3 NAAQS.

[60] CSAPR has been subject to extensive litigation, and on July 28, 2015, the D.C. Circuit issued a decision generally upholding CSAPR but remanding without vacating the CSAPR emissions budgets for a number of states. Arkansas' O_3 season NO_X budgets were not included in the remand. *EME Homer City Generation* v. *EPA,* 795 F.3d 118, 138 (D.C. Cir. 2015).

for O_3 season NO_X is federally enforceable under 40 CFR 52.38.

On February 12, 2018, we approved the Arkansas Regional Haze NO_X SIP revision (effective March 14, 2018) which replaced all source-specific NO_X BART determinations for EGUs established in the FIP with reliance upon the CSAPR emissions trading program for O_3 season NO_X as an alternative to NO_X BART.[61] The O_3 season NO_X requirements under CSAPR apply to all subject-to-BART units in Table 1 of this proposed action except the Domtar No. 1 and 2 Power Boilers, and the White Bluff Auxiliary Boiler. The Arkansas Regional Haze NO_X SIP revision addressed the NO_X BART requirements for Bailey Unit 1, McClellan Unit 1, Flint Creek Boiler No. 1, Lake Catherine Unit 4; White Bluff Units 1 and 2, and the Auxiliary Boiler. In that SIP submittal, ADEQ erroneously identified White Bluff's Auxiliary Boiler as participating in CSAPR for O_3 season NO_X and elected to rely on participation in that trading program to satisfy the Auxiliary Boiler's NO_X BART requirements. Although we approved the SIP submittal on February 12, 2018,[62] our approval of the State's reliance on CSAPR for O_3 season NO_X to satisfy the BART requirements for the Auxiliary Boiler was made in error. Therefore, we proposed to withdraw our approval of the State's reliance upon CSAPR for the Auxiliary Boiler and replace it with our approval of a source-specific 32.2 pph NO_X BART emission limit related to the Arkansas Regional Haze SO_2 and PM SIP submitted on November 30, 2018.[63]

4. Source Retirement and Replacement Schedules

In accordance with Subchapter 11.4.1.6 of the 2008 Arkansas Regional Haze SIP, ADEQ tracked source retirement and replacement through ongoing point source inventories.[64] [65] The progress report showed that ADEQ has performed this tracking. Five new permitted Prevention of Significant Deterioration (PSD) facilities were inventoried and the new corresponding total potential-to-emit (PTE) emissions for NO_X and SO_2 were reported at 5,833 tpy and 7,374 tpy. The total actual NO_X and SO_2 emissions,[66] however, were reported lower at 1,741 tpy and 3,303 tpy, respectively. In addition, sixteen PSD facilities have shut down since 2008, resulting in a total reduction of 15,893 tpy in permitted NO_X emissions and a total reduction of 1,126 tpy in permitted SO_2 emissions.[67]

5. Agriculture and Forestry Smoke Management [68]

The progress report mentioned that the State is currently relying on a Smoke Management Plan (SMP) in its 2008 Arkansas Regional Haze SIP that the Arkansas Forestry Commission approved in 2007. Arkansas' SMP was designed to assure that prescribed fires are planned and executed in a manner designed to minimize the impacts from smoke produced by prescribed fires. The programs in this measure are generally designed to limit increases in emissions, rather than to reduce existing emissions.[69]

6. Additional Federal Programs [70]

The State of Arkansas also considered in its progress report the following ongoing pollution control programs in the 2008 Arkansas Regional Haze SIP as controls used for continuing emission reductions:

- Mercury and Air Toxics Standard (MATS).[71]
- Tier 2 Vehicle Emission standards.[72]
- Heavy-Duty Highway Rule.[73]
- Highway Diesel and Non-Road Diesel Rules.[74]
- Ultra-Low Sulfur Diesel Rule.[75]
- Maximum Achievable Control Technology (MACT).[76]

7. EPA's Conclusion on the Status of Implementation of Measures

The EPA proposes to find that the State has adequately addressed the applicable provisions under 40 CFR 51.308(g) regarding reporting the status of implementation of measures in its implementation plan. The State's progress report documented the status of all measures included in its regional haze SIP (as of the submission of the progress report) and it also described additional measures that came into effect since the State's 2008 regional haze SIP was completed, including state regulations and various federal measures. All major control measures were identified and the strategy behind each control was explained. The State included a summary of the implementation status associated with each measure and quantified the benefits where possible. In addition, the progress report SIP adequately outlined the compliance timeframe for all controls.

[61] See 82 FR 42627 (September 11, 2017) for the proposed approval. See also 83 FR 5927 and 83 FR 5915 (February 12, 2018) for the final action.

[62] See 83 FR 5927 (February 12, 2018).

[63] See the EPA's proposed approval on November 30, 2018 (83 FR 62204).

[64] 40 CFR 51.308(d)(3)(v)(D) requires the State of Arkansas to consider source retirement and replacement schedules in developing RPGs.

[65] 40 CFR 51.308(d)(3)(v)(B) requires the State of Arkansas to consider measures to mitigate the impacts of construction activities.

[66] As reported by the facilities in their Annual Emissions Inventory Report for 2012.

[67] See Tables 2.4 through 2.6 of the progress report.

[68] 40 CFR 51.308(d)(3)(v)(E) requires Arkansas to consider smoke management techniques for the purposes of agricultural and forestry management.

[69] Documentation of this SMP program is in Appendix 11.1 of the 2008 Arkansas Regional Haze SIP or a copy may be found at *http://forestry.arkansas.gov/Services/KidsTeachersEveryone/Documents/ArkansasVSMG.pdf.*

[70] 40 CFR 51.308(d)(3)(v)(A) requires the State of Arkansas to consider emission reductions from ongoing pollution control programs in the development of its long-term strategy.

[71] See 77 FR 9304 (February 16, 2012). Arkansas anticipated that reductions in SO_2 emissions from the State's coal-fired EGUs would occur as a result of the MATS rule. This rule allowed for the installation of pollution control equipment to meet requirements under 40 CFR part 63, subpart UUUUU—National Emission Standards for Hazardous Air Pollutants: Coal- and Oil-Fired Electric Utility Steam Generating Units. At the time the progress report was submitted, Flint Creek planned to install a particular type of dry scrubber that controls SO_2 and other acid gases called Novel Integrated Deacidification (NID) technology and Activated Carbon Injection (ACI) to comply with MATS. Since that time, Flint Creek did install the NID system on boiler unit 1. Because the scrubber system also meets the qualifications as being a BART control, the State is complying with the more stringent SO_2 BART requirements included in the FIP and is meeting both rules using the same controls. The SO_2 BART emission rate, therefore, was set at 0.06 lb/MMBtu based on the installation and operation of the NID technology.

[72] EPA's Tier 2 fleet averaging program for on-road vehicles, modeled after the California LEV (Low Emissions Vehicle) II standards, became effective in the 2005 model year. The mix of vehicles a manufacturer sells each year must have average NO_X emissions below a specified value.

[73] The Heavy-Duty Highway Rule was adopted on January 18, 2001, by EPA with the objective of reducing emissions from diesel engines by setting a PM emission standard for new heavy-duty engines, which took effect with the 2007 model year. The rule also required reduction of sulfur in diesel fuel to facilitate the use of modern pollution control technology on these engines.

[74] These rules were initially effective in 2004 and were fully phased in by 2012. The non-road diesel rule set standards that reduced emissions by more than 90 percent from non-road diesel equipment and, beginning in 2007, the rule reduced fuel sulfur levels by 99 percent from previous levels. The reduction in fuel sulfur levels applied to most non-road diesel fuel in 2010 and applied to fuel used in locomotives and marine vessels in 2012.

[75] The Ultra-Low Sulfur Diesel Rule resulted in better PM control from diesel engines. The EPA regulations required that at least 80 percent of highway diesel fuel in the United States be ULSD, and by 2010, all highway diesel fuel became ULSD. The EPA also required a major reduction in the sulfur content of diesel fuel intended for use in locomotive, marine, and non-road engines and equipment including construction, agricultural, industrial, and airport equipment.

[76] The MACT standards are part of the National Emission Standards for Hazardous Air Pollutants (NESHAP), provided under 40 CFR part 63. See 76 FR 64186, 64198 and 70 FR 39162. CENRAP modeling demonstrated that VOCs from anthropogenic sources are not significant visibility-impairing pollutants at Caney Creek and Upper Buffalo.

C. Emission Reductions From Implementation of Measures

The State presented emission data in its progress report that provided a summary of the emission trends and reductions achieved in the state through the implementation of the measures in the SIP. The State identified ammonium sulfate, particulate organic matter, and nitrate as the three largest pollutant contributors to visibility impairment caused by regional haze at Arkansas' Class I areas for the first implementation period.[77] The progress report indicated that the primary cause of ammonium sulfate, the most significant haze contributor in Arkansas, is SO_2 precursor emissions. In 2011, point sources contributed to 90 percent of the overall SO_2 emissions in Arkansas with EGUs responsible for 78 percent of the total SO_2 emissions.[78] For this reason, the State focused on reporting emission reductions from EGU point sources in the progress report as an effective method of improving visibility in Arkansas.

The State reported EGU point source emission data from Arkansas for NO_X and SO_2 for the 2000 to 2011 time-period.[79] There were not any emission reductions from subject-to-BART sources in Arkansas due to implementation of BART limits when the progress report was submitted. Nevertheless, the overall EGU emissions trended downward from the baseline for NO_X, with a slight uptick in 2011 for SO_2 emissions. Arkansas noted that as of 2011, EGU emissions increased by 2,885 tpy for SO_2 and decreased by 3,741 tpy for NO_X from the 2002 baseline. During the 2002 to 2011 time-span, on a heat input basis, both NO_X and SO_2 EGU emission rates (lb/MMBtu) decreased. This indicates that the overall average control efficiencies improved and the slight SO_2 emissions uptick was a result of increased EGU activity.[80]

Table 3 below, provided by the EPA to complement the State's report, compares more recent emission trends going past 2011.[81] It compares the 2002 to 2011 annual EGU emission trends provided by the State in the progress report to more recent annual EGU emission data provided by the EPA from 2012 to 2017.[82] Table 3 shows that NO_X and SO_2 EGU point source emissions have decreased during the 2011 to 2017 time-period. Comparing 2011 emissions to the 2018 projected emissions developed for the 2008 SIP, the State projected annual SO_2 emissions to increase by an additional 125 tpy and annual NO_X emissions to decrease by an additional 10,167 tpy in 2018 from 2011 observed emissions.[83] The more recent emission data, however, shows a large decrease in SO_2 emissions from EGUs. Specifically, from 2014 to 2015, there was a 30,354 tpy decrease in SO_2 emissions and a 14,783 tpy decrease in NO_X emissions. This corresponds to a decline in EGU activity as noted by the decrease in heat input in 2015. EGU activity has since increased from 2015 to 2017, but the emissions remain well below 2014 emission levels. Overall, from the 2002 to 2017, SO_2 emissions from EGUs have reduced by 22,969 tpy (increased 2,885 tpy from 2002 to 2011, then decreased 25,854 tpy from 2011 to 2017) and NO_X emissions have reduced by 14,579 tpy (decreased 3,741 tpy from 2002 to 2011, then decreased an additional 10,838 tpy from 2011 to 2017). The State's progress report mentioned that further significant emission reductions would be realized from a final permit that was issued on August 25, 2013, at Flint Creek for the installation and operation of control equipment to significantly reduce SO_2 emissions.[84]

TABLE 3—ANNUAL NO_X AND SO_2 EMISSIONS FROM EGU POINT SOURCES IN ARKANSAS

Year	NO_X (tpy)	SO_2 (tpy)	Heat input (MMBtu)	NO_X emission rate (lb/MMBtu)	SO_2 emission rate (lb/MMBtu)
2002	42,079	70,738	303,031,688	0.278	0.467
2005	35,333	66,190	305,909,694	0.231	0.433
2008	37,800	73,289	339,622,527	0.223	0.432
2011	38,338	73,623	411,725,177	0.186	0.358
2012*	34,847	76,326	440,336,753	0.158	0.347
2013*	37,148	73,578	427,915,347	0.174	0.344
2014*	38,396	75,898	410,742,039	0.187	0.370
2015*	23,613	45,544	337,259,867	0.140	0.270
2016*	26,892	46,573	382,621,452	0.141	0.243
2017*	27,500	47,769	391,814,298	0.140	0.244

* Provided by the EPA from the EIS Gateway database.

Table 4, provided by the EPA, compares National Emissions Inventory (NEI) data for total point sources from 2002 to 2014. This complements the categorized NEI point source data (EGU and non-EGU) inventoried by the State in the progress report from 2002 to 2011. It also provides reported emissions data from more current NEI versions than available when the progress report was submitted in 2015.[85] Table 4 shows that fine particle and coarse mass PM emission reductions are considerably lower than their NEI 2002 totals when compared to more recent NEI data.[86] PM_{10} point source emissions decreased by 6,427 tpy (39%) and $PM_{2.5}$ point source emissions decreased by

[77] See Figures 2.1 and 2.2 from the 2015 regional haze progress report (page 17). The percent contributions (2007–2011) of the major haze pollutant contributors for Caney Creek and Upper Buffalo are as follows: (65% and 56%) sulfate, (11% and 16%) nitrate, (15% and 18%) particulate organic matter, 10% attributed to both sites for coarse mass, EC, and soil.

[78] See the Arkansas progress report (page 18).

[79] See Table 3.1 in the Arkansas progress report (page 35).

[80] See Figure 3.2 in the Arkansas progress report (page 38).

[81] Source: U.S. EPA Clean Air Market Division *www.epa.gov/airmarkt/*.

[82] Source: U.S. EPA Clean Air Market Division *www.epa.gov/airmarkt/*.

[83] See Page 37 of the progress report.

[84] See ADEQ Air Permit No. 027–AOP–R6 (AFIN 04–00107). This permit allowed for the installation of pollution control equipment under the MATS rule with an SO_2 emission limit of 0.2 lb/MMBtu, and a compliance date of April 16, 2016. Since the issuance of that permit, ADEQ has submitted the Arkansas Regional Haze SO_2 and PM SIP revision, which establishes an SO_2 BART emission limit of 0.06 lb/MMBtu, achievable by the equipment installed to meet MATS. The SIP revision requires compliance with the 0.06 lb/MMBtu SO_2 emission limit by ''the effective date of the Administrative Order,'' which requires compliance by August 7, 2018.

[85] The State noted that NEI emissions data for 2011 in the progress report was obtained from 2011 NEI version 1.

[86] As reported in the online EPA Emissions Inventory System (EIS) Gateway database for point sources only.

5,600 tpy (49%) for the 2002 to 2014 period. NO_X emissions stayed relatively steady at 71,000 tpy and SO_2 emissions decreased slightly by 4.6 percent for the 2002 to 2014 period. Although the reductions in SO_2 and NO_X emissions are not especially pronounced for that time-period, the total point source emission trends are consistent with what is shown in Table 3 for EGU point sources from 2002 to 2014. We anticipate that the total NEI point source data going forward after 2014 will reflect the substantial decreases in PM, SO_2, and NO_X emissions as already displayed in the EGU point source reductions reported by CAMD data in Table 3.

TABLE 4—NEI TOTAL POINT SOURCE EMISSION DATA FOR ARKANSAS FOR 2002–2014

Year	NO_X (tpy)	SO_2 (tpy)	PM_{10} (tpy)	$PM_{2.5}$ (tpy)
2002	70,726	89,870	16,318	11,536
2005	59,431	75,483	8,532	6,105
2008	75,045	87,308	11,060	7,671
2011	71,402	84,922	10,451	6,782
2014	71,588	85,714	9,891	5,936

In addition to the above reductions, there will also be some additional future reductions due to more stringent CSAPR allocations and BART requirements implemented from the recent Arkansas Regional Haze SO_2 and PM SIP revision. The CSAPR update revised the O_3 season NO_X budget for Arkansas units from 15,110 tons NO_X in 2015 to 12,048 tons NO_X (10,132 tons NO_X allocated to existing EGUs) in 2017 with a further reduction to 9,210 tons NO_X (7,781 tons NO_X allocated to existing EGUs) in 2018 and beyond. The 2017 actual O_3 season EGU emissions for Arkansas totaled 12,811 tons NO_X. Some EGUs chose to install combustion controls to comply with CSAPR that would reduce emissions year-round, not just in the O_3 season. This includes the installation of low NO_X burners at the White Bluff and Independence facilities. The 2018 actual O_3 season EGU emissions for Arkansas totaled 10,952 tons NO_X.[87]

The State noted that, along with the replacement of CAIR with CSAPR, there have been many changes to the ongoing air pollution programs since EPA's partial approval of Arkansas' regional haze SIP in 2012. These changes included more stringent emission standards, renewable fuel standards, fuel efficiency standards, marine and aircraft standards, mercury and air toxics standards, and various national emission standards for hazardous air pollution. Arkansas noted that these more recent air pollution programs are anticipated to result in even greater emission reductions that could result in further visibility improvement than the programs in place at the time the 2008 Arkansas Regional Haze SIP revision was submitted to the EPA.

Lastly, recent and planned retirements of various plants may result in further visibility improvement at Arkansas Class I areas. In the Arkansas Regional Haze SO_2 and PM SIP revision, ADEQ noted the planned retirement of Lake Catherine by the end of 2028 and Entergy's plans to cease coal combustion at the Independence facility by the end of 2030. ADEQ also noted that there have been recent changes in operations at large point sources that have historically impacted Arkansas Class I areas, including the recent retirement of the Big Brown Plant, Sandow Plant, Monticello Plant, and the Deely Plant in Texas. The coal-fired units at the Tennessee Valley Authority Allen Plant, located in Memphis, Tennessee, were also scheduled to retire by June 2018 and be replaced with natural gas generators.

The EPA proposes to conclude that the State has adequately addressed the applicable provisions under 40 CFR 51.308(g) regarding a summary of emission reductions achieved for visibility impairing pollutants. Overall, the State demonstrated the emission reductions achieved for the major contributing visibility impairing pollutants in the State for the first implementation period. Emissions of SO_2, NO_X, and PM, the main contributors to regional haze in Class I areas potentially affected by emissions from Arkansas, have all been decreasing. As demonstrated by the more recent available data, the SO_2 and NO_X haze pollutant precursors from EGU point sources in the state have decreased from the baseline levels in 2002, especially since 2015. Also, the trend for fine particles and coarse mass emissions, pollutants that directly create haze, have been decreasing since 2002. Overall visibility conditions are improving as a result of these reductions together with decreases from outside of the state. With the implementation of the new BART controls and more stringent NO_X allocations under CSAPR, further emission reductions should be realized and visibility impairment at affected Class I areas should continue to improve.

D. Visibility Conditions and Changes

Arkansas included in its progress report the annual average visibility from 2001 to 2011 for the twenty percent best (least impaired) and twenty percent worst (most impaired) days at Caney Creek and Upper Buffalo Wilderness areas.[88] Although visibility conditions have varied from year-to-year, the progress report showed that both Caney Creek and Upper Buffalo have displayed an overall improvement in visibility since 2001.[89] Arkansas reported that both areas showed improved visibility from the 2000 to 2004 baseline during the worst days for the most current period (2007 to 2011) and for the period previous to the most current (2005 to 2009) available at the time of the progress report's development.[90] Both class I areas similarly are showing improvement from the baseline on the twenty percent best days and satisfy the goal of no visibility degradation for the first implementation period. Table 5 shows that the visibilities at Caney Creek and Upper Buffalo during the 2007 to 2011 period were 0.96 dv and 0.67 dv below the baseline for the twenty percent best days.

[87] Source: U.S. EPA Clean Air Market Division *www.epa.gov/airmarkt/.*

[88] The *most and least impaired days* in the regional haze rule refers to the average visibility impairment (measured in dv) for the twenty percent of monitored days in a calendar year with the highest and lowest amount of visibility impairment, respectively, averaged over a five-year period (see 40 CFR 51.301). In this report, when we refer to ''best days'' we mean ''least impaired'' and when we refer to ''worst days'' we mean ''most impaired.''

[89] See Figures 4.1 to 4.2 and Tables 4.1 to 4.2 of the progress report (pages 41–43).

[90] Progress reports for the first implementation period used specific terms to describe time-periods. ''*Baseline visibility conditions*'' refers to conditions during the 2000 to 2004 time-period. ''*Current visibility conditions*'' refers to the most recent five-year average data available at the time the State submitted its progress report for public review. ''*Past five years*'' refers to the five-year average previous to the five years used for ''*current visibility conditions.*''

TABLE 5—VISIBILITY AT ARKANSAS CLASS I AREAS FOR THE TWENTY PERCENT BEST DAYS
[Five-Year Average]

Class I area	Baseline (2000–2004) (dv)	(2005–2009) (dv)	(2007–2011) (dv)	Most recent minus baseline (dv)
Caney Creek Wilderness	11.39	11.06	10.43	−0.96
Upper Buffalo Wilderness	11.71	11.85	11.04	−0.67

* A negative sign indicates a reduction from the baseline.

In the State's August 8, 2018 submittal (Arkansas Regional Haze SO_2 and PM SIP), the State's 2018 RPGs from the 2008 Arkansas Regional Haze SIP for Caney Creek and Upper Buffalo were revised downward to 22.47 dv and 22.51 dv for the twenty percent worst days.[91] These revised RPGs are more stringent than what was established in the 2008 Arkansas Regional Haze SIP and account for the controls required in the Arkansas Regional Haze SO_2 and PM SIP submittal.[92] We proposed to agree with the State's newly revised 2018 RPGs for the twenty percent worst days in our November 30, 2018 proposed approval action.[93] The Arkansas Regional Haze SO_2 and PM SIP submittal did not revise the RPG for the twenty percent best days that was included in the 2008 Arkansas Regional Haze SIP.

Table 6 provides more recent monitored visibility data presented by the State in the August 8, 2018 SIP revision for the twenty percent worst days at Caney Creek and Upper Buffalo Wilderness areas.[94] The observed values exhibit a consistent downward trend in the observations. When comparing the revised 2018 RPGs with the observed five-year visibility trends, Caney Creek and Upper Buffalo are already realizing more visibility improvement than needed to meet the revised 2018 RPGs. Most recently, the visibility conditions at Caney Creek and Upper Buffalo during the 2012 to 2016 period were 1.83 dv and 1.95 dv below the 2018 revised RPGs.

TABLE 6—VISIBILITY AT ARKANSAS CLASS I AREAS FOR THE TWENTY PERCENT WORST DAYS
[Five-Year Average]

Class I area	Baseline (2000–2004) (dv)	(2005–2009) (dv)	(2007–2011) (dv)	(2009–2013) (dv)	(2012–2016) (dv)	2018 Revised RPGs (dv)
Caney Creek Wilderness	26.36	25.33	23.00	22.22	20.64	22.47
Upper Buffalo Wilderness	26.27	25.86	24.15	22.15	20.56	22.51

The EPA proposes to conclude that the State has adequately addressed the applicable provisions under 40 CFR 51.308(g) with respect to visibility conditions at Arkansas' Class I areas. The State provided five-year average baseline visibility conditions from 2000 to 2004, the five-year average visibility conditions from 2007 to 2011, and the five-year average visibility conditions for 2005 to 2009. The State calculated the change in visibility between the baseline average and the most recent five-year average available (2007 to 2011). The results were tabulated for the twenty percent worst and best days and then compared to the 2018 RPGs to determine the amount of visibility improvement achieved. Caney Creek and Upper Buffalo Wilderness areas have both demonstrated improved visibility for the most impaired and least impaired days since 2001. Based on the five-year rolling averages, both wilderness areas have already exceeded the amount of visibility improvement needed to meet the more stringent revised 2018 RPGs for the twenty percent worst days. Analysis of the visibility data from Caney Creek and Upper Buffalo Wilderness areas also shows that the goal of no visibility degradation on the twenty percent best days has been achieved.

E. Emission Tracking

In its progress report, ADEQ presented categorized NEI emission inventories for 2002, 2005, 2008, and 2011, as well as CENRAP projected inventories for 2018. The pollutants inventoried included SO_2, NO_X, NH_3, VOC, $PM_{2.5}$, and PM_{10}. The inventories were categorized for all major visibility-impairing pollutants under major anthropogenic source groupings. The anthropogenic source categorization included point and non-point EGUs; on and non-road mobile sources; area sources; fugitive and road dust; fire, and agricultural/biogenic sources. The 2008 and 2011 NEI inventories were the most recent comprehensive inventories of updated actual emissions available at the time the State prepared its progress report. The State, therefore, emphasized those NEI inventories in the progress report and then compared the categorized inventory changes from 2011 to the 2002 baseline emissions.[95] A summary of the total state NEI emissions from the progress report can be seen below in Table 7 along with more recent complementary data from 2014 provided by the EPA to show emission trends going past 2011.

[91] See spreadsheet, *sip-rev-rpg-calcs.xlsx,* provided at *https://www.adeq.state.ar.us/air/planning/sip/regional-haze.aspx.*

[92] See page 54 of the Arkansas Regional Haze SO_2 and PM SIP revision.

[93] See the EPA's proposed approval on November 30, 2018 (83 FR 62204).

[94] See spreadsheet, *visibility-progress.xlsx,* provided at *https://www.adeq.state.ar.us/air/planning/sip/regional-haze.aspx.*

[95] See Table 5.1 (page 46–47) of the progress report.

TABLE 7—COMPARISON OF TOTAL STATE NEI EMISSIONS

[tpy]

Year	SO_2	NO_X	NH_3	VOC	$PM_{2.5}$	PM_{10}
2002	126,707	239,487	124,297	228,032	62,505	243,372
2005	126,707	239,487	134,156	312,648	108,362	296,149
2008	94,113	247,734	131,710	1,427,040	124,829	443,213
2011	95,123	260,737	132,940	1,643,979	144,191	467,527
2014*	91,033	212,638	76,114	1,625,837	119,957	369,682

*Provided by the EPA from the EIS gateway database.

The NEI emissions increased from 2002 to 2011 except for SO_2 emissions. The State explained in the progress report that the total SO_2 emissions decreased as a result of phasing in low sulfur (500 ppm) Ultra-Low Sulfur Diesel fuels for nonroad, locomotive, and marine engines beginning in 2007. The emission increase for the remaining pollutants in table 7 was due to an emission rise in 2011 that happened across the board. Fires were the primary cause of the emission increase for SO_2, $PM_{2.5}$, PM_{10}, and NH_3, but road dust also impacted PM during that time. Area sources were the chief contributor to NO_X increases and agricultural sources contributed the most to VOC emission increases in 2011.[96] The State believes that much of the increases for NO_X, PM_{10}, and $PM_{2.5}$ may have been due to the use of newer modeling methodologies that were not available when the baseline projections were developed in 2002.[97] The State also observed that NO_X and $PM_{2.5}$ emissions trended downward in the point EGU category between 2002 and 2011.[98]

The updated 2014 NEI data in table 7 shows that the total state emissions decreased from 2011 for all of the visibility impairing pollutants except VOCs, which slightly increased.[99] The source categories in table 8 below (provided by the EPA) are the driving factors causing the total NEI emission decreases from 2011 to 2014.[100] When comparing the individual categories, agricultural/biogenic and area source emissions account for the majority of emission increases from 2011 to 2014 with small increases also resulting from fugitive dust and point sources. Those increases are offset, though, by large reductions in the rest of the categories, resulting in overall net decreases of all pollutant emissions. Although fire emissions had a big impact on visibility impairing pollutants in 2011, there was a major improvement in 2014 indicated by reductions of all pollutants except NH_3, especially PM and VOC emissions. PM_{10}, $PM_{2.5}$, and VOC emissions from fire showed large reductions of 26,678 tpy, 22,058 tpy, and 49,182 tpy respectively. Likewise, road dust previously impacted PM levels in 2011 but showed substantial reductions of 105,187 tpy PM_{10} and 11,448 tpy $PM_{2.5}$ in 2014. Point sources had increases of NO_X, SO_2, NH_3, and VOC emissions but they netted out due to overall net decreases from the other source categories. Lastly, mobile emissions reduced for every pollutant except a small inconsequential non-road mobile increase for NH_3. NO_X and VOC exhibited the most mobile emission reductions of 15,124 tpy NO_X and 8,397 tpy VOC.

TABLE 8—2014 EMISSION DATA (tpy) AND THE CATEGORY CHANGES SINCE 2011 FOR ARKANSAS

Category	NO_X	SO_2	PM_{10}	$PM_{2.5}$	NH_3	VOC
Agricultural/Biogenic	18,588 (−6,744)	0	153,477 (+17,805)	30,009 (+2,875)	58,981 (−58,976)	1,342,516 (−119,084)
Area[101]	15,472 (−14,701)	321 (−1,684)	26,423 (+15,513)	16,455 (+8,428)	905 (+479)	69,117 (−10,484)
Fires	8,743 (−5,897)	4,624 (−2,946)	59,755 (−26,678)	50,198 (−22,058)	13,094 (+824)	133,197 (−49,182)
Fugitive Dust	0	0	17,143 (+1,953)	1,714 (+195)	0	0
Road Dust	0	0	97,066 (−105,187)	11,373 (−11,448)	0	0
Non-road Mobile	18,819 (−3,337)	41 (−16)	1,926 (−391)	1,835 (−376)	28 (+1)	23,204 (−6,161)
On-road Mobile	79,428 (−11,787)	333 (−27)	4,001 (−970)	2,436 (−545)	1,235 (−72)	33,171 (−2,236)
Point Sources	71,588 (+186)	85,714 (+792)	9,891 (−560)	5,936 (−846)	1,871 (+610)	24,632 (+1,821)
Total Emission Change	−42,279	−3,881	−98,515	−23,775	−57,134	−185,326

*The numbers in parentheses indicate an increase (+) or decrease (−) in emissions from 2011.

The EPA proposes to conclude that the State has adequately addressed the applicable provisions under 40 CFR 51.308(g). The State tracked changes in emissions by category across the entire emission inventory and the results show that the emissions from SO_2, NO_X, and PM, the main contributors of regional haze in Arkansas, have all decreased since the 2008 SIP submittal. The analysis provides the most recent period for which data was available in practical terms (2008 to 2011) from when the State submitted its regional haze SIP.[102] The EPA provided an additional update

[96] See Table 5.1 of the progress report (page 46 to 47).

[97] See page 47 of progress report. Emission changes were seen in the on-road mobile source inventory between 2008 and 2011 as a result of the transition from EPA's MOBILE6 model to the Motor Vehicle Emission Simulator (MOVES) model for estimation of emissions. Increases in on-road mobile source PM_{10} and $PM_{2.5}$ emissions have been documented as part of the new model's estimation methodology. The transition to MOVES model estimation methodology also resulted in increased NO_X emissions for on-road mobile sources. Modeling figures for fires also accounted for a major portion of the estimated emission increase for $PM_{2.5}$ from 2008 to 2011.

[98] See Table 5.4 of the progress report (Page 51).

[99] See 70 FR 39162. VOC emissions did increase since 2008, but CENRAP modeling demonstrated that VOCs are not significant contributors to visibility impairment at Caney Creek and Upper Buffalo Wilderness areas.

[100] As reported in the online EPA Emissions Inventory System (EIS) Gateway database.

[101] See Page 45 of the progress report.

[102] While ideally the five-year period to be analyzed for emission inventory changes is the time-period since the current regional haze SIP was submitted, there is an inevitable time lag in developing and reporting complete emissions inventories once quality-assured emissions data becomes available. Therefore, there is some flexibility in the five-year time-period that states can select.

with 2014 NEI data to complement the State's report. These data indicate that overall emissions of all visibility impairing pollutants have reduced from 2011 to 2014. SO_2, NO_X, and PM emissions have continued to show a downward trend since the 2008 submittal.[103] As discussed in section II.C. in this proposed rulemaking, more recent available data shows that SO_2 and NO_X emissions from EGU point sources in the state have decreased from the baseline levels in 2002, especially since 2015. The EPA concludes that the State presented an adequate analysis tracking emission trends for the key visibility impairing pollutants across Arkansas.

F. Assessment of Changes Impeding Visibility Progress

The State indicated in the progress report[104] that there were no significant changes in anthropogenic emissions that limited or impeded progress in reducing pollutant emissions and improving visibility as contemplated by the 2008 Arkansas Regional Haze SIP. The State's Class I areas showed overall downward trends in visibility impairment. The State's current analysis of emission reductions and categorized inventories presented in the progress report, along with more recent emission data evaluated by the EPA in this action (see sections II.C and II.E), show that no significant changes in emissions within the state are occurring to impede visibility improvement or adversely affecting the two Class I areas in Arkansas. There are also no significant emission changes from sources outside of Arkansas that are adversely affecting Arkansas' Class I areas. Through consultation with adjacent states, it was determined and agreed upon that additional emission reductions from other states are not necessary to address visibility impairment at Caney Creek and Upper Buffalo Wilderness areas for the first implementation period.[105] The participating states also determined before the 2008 SIP submittal through regional modeling that Missouri's Class I areas were expected to be on course to meet their respective 2018 RPGs. The current data confirms the projected trend and shows that all Class I areas within and outside the state impacted by Arkansas emissions are now currently meeting their RPGs for the first implementation period as discussed in section II.G of this action. No significant changes in emissions have limited or impeded progress in improving visibility. The EPA proposes to conclude that the State has adequately addressed the applicable provisions under 40 CFR 51.308(g) regarding assessing any changes that could impede visibility progress.

G. Assessment of Current Strategy To Meet RPGs

In its progress report, the State assessed the strategies in the 2008 Arkansas Regional Haze SIP based upon projected emissions and modeling results. The State determined that the strategies were sufficient to enable Arkansas and other states with Class I areas affected by emissions from Arkansas to meet all established RPGs. The evaluation set forth by the State in the progress report for the Class I areas in Arkansas was based on the RPGs established in the 2008 Arkansas Regional Haze SIP that were disapproved in the 2012 action.

As part of the 2018 Arkansas Regional Haze SO_2 and PM SIP revision, Arkansas reevaluated its RPGs and long-term strategy. The 2008 SIP RPGs for the twenty percent worst days were recently replaced by the State with new revised RPGs[106] defined in the Arkansas Regional Haze SO_2 and PM SIP revision.[107] The 2018 RPGs for Caney Creek and Upper Buffalo were revised slightly downward from the 2008 SIP RPGs to 22.47 dv and 22.51 dv for the twenty percent worst days. The revised 2018 RPGs were estimated based on scaling Arkansas SO_4^2 and NO_3 point source impacts from CENRAP's 2018 CAMx modeling results by the change in emissions of NOx and SO_2 due to revised regional haze SIP controls required by the end of 2018. The State made updates to reflect the most recent three years of data (2014 to 2016) for emissions and heat inputs that were used for Arkansas EGUs. Currently, both Caney Creek and Upper Buffalo Wilderness areas are achieving greater visibility improvement than the revised 2018 RPGs.[108] Based on available monitored data, the current visibility trendlines are below their respective 2018 RPGs from the baseline conditions and visibility is continuing to improve.

Sources in Arkansas also impact Hercules Glades and Mingo Wilderness Class I areas in Missouri. Arkansas stated in its progress report that the 2018 RPGs for Missouri's Class I areas would be met, but it did not restate those 2018 RPGs or compare them to the available monitored data. Recent information for these areas, however, complements the State's analysis and shows that Missouri is indeed currently on track to achieve its 2018 RPGs for Hercules Glades and Mingo Wilderness.[109] The 2012 to 2016 five-year rolling average of observed visibility impairment for the twenty percent haziest days at Hercules Glades Wilderness Area is 20.72 dv (2.34 dv below Missouri's 2018 RPG). The 2012 to 2016 five year-rolling average of observed visibility impairment for the twenty percent haziest days at Mingo Wilderness Area is 22.34 dv (1.37 dv below Missouri's 2018 RPG goal). Arkansas concluded that the visibility improvement observed at the IMPROVE monitors indicates that sources in Arkansas are not interfering with the achievement of Missouri's 2018 RPGs for Hercules Glades and Mingo Wilderness Areas. Therefore, we are proposing to find that Arkansas' implementation plan is sufficient to ensure that other states' visibility RPGs for the first planning period for their respective Class I areas are being met.

The EPA proposes to conclude that the State has adequately addressed the applicable provisions under 40 CFR 51.308(g) to assess the current strategy to meet RPGs. The State has assessed the implementation plan in place at the time the progress report was submitted, and we find that the implementation plan as it currently exists is sufficient to enable the state of Arkansas and other nearby states to meet their RPGs. The realized and planned controls and reductions that form the current strategy for this first implementation period are sufficient to meet the revised RPGs as established in the Arkansas Regional Haze SO_2 and PM SIP revision. Both Class I areas in Arkansas are currently meeting the revised 2018 RPGs for the twenty percent worst days. Visibility data from Caney Creek and Upper Buffalo Wilderness areas also show that the goal of no visibility degradation for the twenty percent best days is being achieved. Missouri's two Class I areas are also on track to achieve their visibility reduction goals.

[103] See 70 FR 39162. VOC emissions did increase since 2008, but CENRAP modeling demonstrated that VOCs are not significant contributors to visibility impairment at Caney Creek and Upper Buffalo Wilderness areas.

[104] See Page 54 of the progress report.

[105] See 76 FR 64196.

[106] See the *sip-rev-rpg-calcs.xlsx* spreadsheet at *https://www.adeq.state.ar.us/air/planning/sip/regional-haze.aspx.*

[107] See page 48 of the Arkansas Regional Haze SO_2 and PM SIP revision.

[108] See Figures 11 and 12 on pages 50 to 52 of the Arkansas Regional Haze SO_2 and PM SIP revision.

[109] See *Visibility Progress_Update_2016.xlsx* in the docket of this action.

H. Review of Visibility Monitoring Strategy

The monitoring strategy for regional haze in Arkansas relies upon participation in the IMPROVE [110] network, which is the primary monitoring network for regional haze nationwide. The IMPROVE network provides a long-term record for tracking visibility improvement or degradation. Arkansas currently relies on data collected through the IMPROVE network to satisfy the regional haze monitoring requirement as specified in 40 CFR 51.308(d)(4) of the Regional Haze Rule.

In its progress report, Arkansas summarized the existing IMPROVE monitoring network and its intended continued reliance on IMPROVE for visibility planning. In Arkansas, there are two IMPROVE sites. The first IMPROVE site is located in Polk County at the Ouachita National Forest and represents the 14,460 acres of the Caney Creek Wilderness. The second IMPROVE site is located in Newton County at the Ozark National Forest and represents the 11,801 acres of the Upper Buffalo Wilderness area, including the original Wilderness and the additions to it.[111] Arkansas is committed to meeting the requirements under 40 CFR 51.308(d)(4)(iv), and reports annually to the EPA visibility data for each of Arkansas' Class I areas. For the progress report, Arkansas has evaluated its monitoring network and found that there have not been any changes from the 2008 Arkansas Regional Haze SIP network. Arkansas reaffirmed its continued reliance upon the IMPROVE monitoring network. Arkansas also explained the importance of the IMPROVE monitoring network for tracking visibility trends at its Class I areas and identified no expected changes in this network. The EPA proposes to conclude that the State has adequately addressed the applicable provision under 40 CFR 51.308 for a visibility monitoring strategy.

I. Determination of Adequacy of Existing Implementation Plan

Arkansas noted that it was committed to correcting the portions of the 2008 Arkansas Regional Haze SIP that were disapproved by the EPA and provided a negative declaration stating that no additional controls were necessary during the first implementation period.[112] Since the progress report's submission in 2015, the EPA promulgated a FIP and the State subsequently submitted two SIP revisions to fulfill its commitment to address the disapproved portions identified in the 2012 action (the 2017 Arkansas Regional Haze NO_X SIP revision and the 2018 Arkansas Regional Haze SO_2 and PM SIP revision).[113] When considering the new SIP requirements; the SIP requirements that we proposed for approval; the remaining FIP elements; the visibility and emission information provided in the progress report; and the more recent data evaluated by the EPA; it is clear that the implementation plan is adequate to meet its emission reductions and visibility goals for the first implementation period. Current visibility conditions in Arkansas have improved beyond the more stringent 2018 RPGs that were introduced in the 2018 Arkansas Regional Haze SO_2 and PM SIP revision. Visibility has also improved at both Missouri Class I areas affected by Arkansas sources. Lastly, the updated emission trends show that SO_2, NO_X, and PM emissions (the main contributors to regional haze in Arkansas) have all been decreasing. The Arkansas Regional Haze NO_X SIP revision,[114] the Arkansas Regional Haze SO_2 and PM SIP revision (if EPA's proposed approval is finalized),[115] and the remaining part of the FIP that addresses the BART and associated long-term strategy requirements for Domtar together fully address the deficiencies of the 2008 Arkansas Regional Haze SIP. Because the SIP and FIP will ensure the control of SO_2 and NO_X emission reductions relied upon by Arkansas and other states in setting their RPGs, the EPA is proposing to approve Arkansas' finding that there is no need for revision of the existing implementation plan to achieve the RPGs for the Class I areas in Arkansas and in nearby states impacted by Arkansas sources. We, therefore, propose to approve Arkansas' negative declaration under 40 CFR 51.308(h) that no additional controls are needed.

J. Consultation With Federal Land Managers

The Regional Haze Rule requires the State to provide the designated Federal Land Managers (FLMs) with an opportunity for in-person consultation at least sixty days prior to holding any public hearings on a SIP revision for the first implementation period. Arkansas invited the FLMs to comment on its draft progress report on April 25, 2014, for a sixty-day comment period ending June 24, 2014, that was extended until June 27, 2014, per FLM request. The FLM's comments and Arkansas' responses are presented in Appendix A of the progress report. ADEQ also engaged in multiple conference calls arranged by CenSARA for the central states with the designated FLMs which took place on February 27, 2012, April 30, 2013, July 30, 2013, August 13, 2013, and September 12, 2013. The EPA proposes to conclude that Arkansas has adequately addressed the applicable FLM provisions under 40 CFR 51.308(i).

III. The EPA's Proposed Action

The EPA is proposing to approve the State of Arkansas' regional haze five-year progress report SIP revision (submitted June 2, 2015) as meeting the applicable regional haze requirements set forth in 40 CFR 51.308(g). The EPA is also proposing to approve the State of Arkansas' determination of adequacy under 40 CFR 51.308(h) that no additional controls are needed. Lastly, the EPA is proposing to find that the State of Arkansas fulfilled its requirement in 40 CFR 51.308(i) regarding state coordination with FLMs.

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 Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely proposes to approve state law as meeting Federal requirements and does

[110] See 64 FR 35715 (July 1, 1999). Data from IMPROVE show that visibility impairment caused by air pollution occurs virtually all the time at most national parks and wilderness areas. The average visual range in many Class I areas (*i.e.,* national parks and memorial parks, wilderness areas, and international parks meeting certain size criteria) in the western United States is 100–150 km, or about one-half to two-thirds of the visual range that would exist without anthropogenic air pollution. In most of the eastern Class I areas of the United States, the average visual range is less than 30 km, or about one-fifth of the visual range that would exist under estimated natural conditions.

[111] See Table 8.1 in the progress report (page 63).

[112] Specifically, the EPA disapproved certain BART compliance dates; the State's identification of certain BART-eligible sources and subject-to-BART sources; certain BART determinations for NO_X, SO_2, and PM; the reasonable progress analysis and RPGs; and a portion of the long-term strategy. The remaining provisions of the 2008 Arkansas Regional Haze SIP were approved.

[113] See final action approved on February 12, 2018 for the Arkansas Regional Haze NO_X SIP revision (83 FR 5927) and the EPA's proposed approval on November 30, 2018 for the Arkansas Regional Haze SO_2 and PM SIP revision (83 FR 62204).

[114] Final action approved on February 12, 2018 (83 FR 5927).

[115] Proposed approval on November 30, 2018 (83 FR 62204).

not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993), 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, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the proposed rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Best Available Retrofit Technology, Incorporation by reference, Intergovernmental relations, Nitrogen oxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Regional haze, Sulfur dioxide, Visibility, Volatile organic compounds.

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

Dated: March 21, 2019.

Anne Idsal,

Regional Administrator, Region 6.

[FR Doc. 2019–05861 Filed 3–27–19; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R06–OAR–2016–0619; FRL–9990–53–Region 6]

Air Plan Approval; Oklahoma; Regional Haze Five-Year Progress Report

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: Pursuant to the Federal Clean Air Act (CAA or the Act), the Environmental Protection Agency (EPA) is proposing to approve a revision to a State Implementation Plan (SIP) submitted by the Governor through the Oklahoma Department of Environmental Quality (ODEQ) on September 28, 2016. The SIP revision addresses requirements of federal regulations that direct the State to submit a periodic report describing progress toward reasonable progress goals (RPGs) established for regional haze and a determination of the adequacy of the existing implementation plan.

DATES: Written comments must be received on or before April 29, 2019.

ADDRESSES: Submit comments, identified by Docket No. EPA–R06–OAR–2016–0619, at *https://www.regulations.gov* or via email to *steib.clovis@epa.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov.* The EPA may publish any comment received to its public docket. Do not submit any information electronically that is considered Confidential Business Information (CBI) or any 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 all discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing systems). For additional submission methods, please contact Bill Deese, 214–665–7253, *deese.william@epa.gov.* For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www.epa.gov/dockets/commenting-epa-dockets.*

Docket: The index to the docket for this action is available electronically at *www.regulations.gov* and in hard copy at the EPA Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (*e.g.,* copyrighted material), and some may not be publicly available at either location (*e.g.,* CBI).

FOR FURTHER INFORMATION CONTACT: Clovis Steib, (214) 665–7566, *steib.clovis@epa.gov.* To inspect the hard copy materials, please schedule an appointment with Mr. Bill Deese at 214–665–7253.

SUPPLEMENTARY INFORMATION: Throughout this document wherever ''we,'' ''us,'' or ''our'' each mean the EPA.

I. Background

A. Oklahoma's Regional Haze SIP

In section 169A of the 1977 CAA Amendments, Congress created a program for protecting visibility in the nation's national parks and wilderness areas. This section of the CAA establishes as a national goal the prevention of any future, and the remedying of any existing, visibility impairment in mandatory Class I Federal areas where impairment results from manmade air pollution.[1] Congress added section 169B to the CAA in 1990 that added visibility protection provisions, and the EPA promulgated final regulations addressing regional haze as part of the 1999 Regional Haze Rule, which was most recently updated

[1] Mandatory Class I Federal areas consist of national parks exceeding 6,000 acres, wilderness areas and national memorial parks exceeding 5,000 acres, and all international parks that were in existence on August 7, 1977. The EPA, in consultation with the Department of Interior, promulgated a list of 156 areas where visibility was identified as an important value. The extent of a mandatory Class I area includes subsequent changes in boundaries, such as park expansions. Although states and tribes may designate additional areas as Class I, the requirements of the visibility program set forth in the CAA applies only to ''mandatory Class I Federal areas.'' Each mandatory Class I Federal area is the responsibility of a ''Federal Land Manager.'' When the term ''Class I area'' is used in this action, it means ''mandatory Class I Federal areas.'' [See 44 FR 69122, November 30, 1979 and CAA Sections 162(a), 169A, and 302(i)].

in 2017.[2] The Regional Haze Rule revised the existing 1980 visibility regulations and established a more comprehensive visibility protection program for Class I areas. The requirements for regional haze, found at 40 CFR 51.308 and 51.309, are included in the EPA's broader visibility protection regulations at 40 CFR 51.300 through 309. The regional haze regulations require states to demonstrate reasonable progress toward meeting the national goal of a return to natural visibility conditions for mandatory Class I Federal areas both within and outside states by 2064. The requirement to submit a regional haze SIP revision at periodic intervals applies to all 50 states, the District of Columbia, and the Virgin Islands. Oklahoma submitted its initial regional haze SIP on February 18, 2010.

Oklahoma's 2010 Regional Haze SIP included calculations of baseline and natural visibility conditions for the Wichita Mountains Wilderness Area (''Wichita Mountains'' or WMWA),[3] the only Class I area located in Oklahoma (and potentially affected Class I areas located elsewhere), a long-term strategy to address regional haze visibility impairment, RPGs for the WMWA reflective of the visibility conditions projected to be achieved by the end of the first implementation period, and a monitoring and reporting strategy. The 2010 Regional Haze SIP also included determinations of emission limitations and schedules for compliance for a group of Oklahoma industrial air emissions sources that are subject to best available retrofit technology (BART)[4] under national Regional Haze Program requirements. Oklahoma's Regional Haze SIP purports that visibility improvement at the WMWA is limited by the impact of out-of-state emission sources.

The 2010 Regional Haze SIP evaluated numerous sources for applicability of BART. Oklahoma relied on BART requirements for emissions of sulfur dioxide (SO_2) and nitrogen oxides (NO_X) from certain electric generating units (EGUs) in the State in its regional haze plan to meet certain requirements of EPA's Regional Haze Rule. This reliance was consistent with EPA's regulations at the time that Oklahoma developed its regional haze plan. EPA approved core elements of Oklahoma's Regional Haze SIP, including BART determinations for the majority of emissions units that were subject to BART. Those determinations became effective on January 27, 2012 (76 FR 81728, December 28, 2011). However, EPA disapproved ODEQ's BART determinations for SO_2 emissions from six-coal-fired EGUs located at three facilities. As a result, EPA issued a federal implementation plan (FIP), promulgating revised SO_2 BART emission limits on coal-fired EGUs at those three facilities.[5] The FIP affects two units at each of two facilities owned and operated by Oklahoma Gas and Electric Company (OG&E): Muskogee Generating Station in Muskogee County, and Sooner Generating Station in Noble County. The FIP also initially applied to two units at American Electric Power/Public Service Company of Oklahoma's (AEP/PSO's) Northeastern Power Station in Rogers County, but those requirements have since been removed from the FIP after EPA approval of a SIP revision addressing these units.

In the December 2011 action, EPA also disapproved the State's LTS for regional haze because the LTS relied on the BART limits in the disapproved determinations. EPA also disapproved portions of *Oklahoma's Interstate Transport SIP for the 1997 8-hour Ozone and 1997* $PM_{2.5}$ *National Ambient Air Quality Standards* (submitted to address the requirements of CAA section 110(a)(2)(D)(i)(II) as it applies to visibility, also known as ''prong 4''). Specifically, this disapproval found that the SIP submittal had not prevented SO_2 emissions from the above-mentioned units from interfering with measures required to be included in the applicable implementation plans of other states to protect visibility. Subsequently, EPA promulgated the aforementioned FIP, to address these deficiencies.[6] EPA took no action on Oklahoma's RPGs for WMWA, pending its evaluation of impacts of out-of-state emission sources.

On March 7, 2014, EPA published a document[7] in the **Federal Register** approving Oklahoma's 2013 SIP revision[8] submitted to address certain disapproved portions of the Regional Haze SIP related to the BART determination for two coal-fired units located at American Electric Power/Public Service Company of Oklahoma's (AEP/PSO's) Northeastern Power Station in Rogers County, Oklahoma. A separate document, published simultaneously,[9] withdrew the EPA-issued FIP as it relates to the Northeastern Power Station facility. The approved revision also satisfied the previously disapproved portions of Oklahoma's Interstate Transport SIP and the Regional Haze SIP's LTS, as those portions relate to the subject facility. The FIP still applies (unaltered) to the four affected units at the Muskogee and Sooner Generating Stations.

On December 16, 2014, EPA published a proposed action on the final portion of Oklahoma's 2010 Regional Haze SIP and on regional haze obligations for Texas.[10] As mentioned previously, Oklahoma's 2010 SIP concluded that visibility progress at the WMWA would be limited by the impact of out-of-state emission sources; and documented that a significant portion of the visibility impairment at the WMWA results from emissions generated in Texas.

Given the magnitude of these interstate impacts, EPA determined that the Oklahoma and Texas regional haze SIPs were interconnected, especially considering the relationship between upwind and downwind states in the reasonable progress and long-term strategy provisions of the Regional Haze Rule. On January 5, 2016, EPA issued a final action[11] for Texas and Oklahoma which:

- Disapproved portions of Texas's implementation plan for regional haze related to the effects of its emissions at the WMWA and other Class I areas;
- Disapproved a portion of Oklahoma's regional haze SIP revision, the reasonable progress goals at the

[2] See the July 1, 1999 Regional Haze Rule final action (64 FR 35714), as amended on July 6, 2005 (70 FR 39156), October 13, 2006 (71 FR 60631), June 7, 2012 (77 FR 33656) and on January 10, 2017 (84 FR 3079).

[3] WMWA is contained within the Wichita Mountains National Wildlife Refuge and is managed by the U.S. Fish and Wildlife Service. The Refuge is located in Comanche County adjacent to Fort Sill Military Reservation, a U.S. Army training base. The city of Lawton is the closest population center and is located 22 miles southeast of the Refuge.

[4] Section 169A of the CAA directs states to evaluate the use of retrofit controls at certain larger, often under-controlled, older stationary sources in order to address visibility impacts from these sources. Specifically, section 169A(b)(2)(A) of the CAA requires states to revise their SIPs to contain such measures as may be necessary to make reasonable progress toward the natural visibility goal by controlling emissions of pollutants that contribute to visibility impairment, including a requirement that certain categories of existing major stationary sources built between 1962 and 1977 procure, install, and operate the ''Best Available Retrofit Technology'' (BART).

[5] See 76 FR 81728 (December 28, 2011), codified at 40 CFR 52.1923.

[6] The final rule noted in 40 CFR 52.1928(c) that the FIP satisfied these deficiencies.

[7] See 79 FR 12944.

[8] *Oklahoma's Proposed Regional Haze Implementation Plan Revision* submitted on March 20, 2013; available in Docket No. EPA–R06–OAR–2013–0227.

[9] See 79 FR 12954.

[10] See 79 FR 74818.

[11] See 81 FR 295 (January 5, 2016), codified at 40 CFR 52.2302.

WMWA, and its reasonable progress consultation with Texas;[12]

- Simultaneously promulgated a FIP for Texas, which required additional reductions from eight coal-fired electric power plants; and
- Calculated new (numerical) reasonable progress goals at the WMWA.

EPA's actions did not impose any additional requirements on emission sources within Oklahoma.

That rulemaking was challenged, however, and then stayed in its entirety by the U.S. Court of Appeals for the Fifth Circuit pending resolution of the litigation; in March 2017, following the submittal of a request by the EPA for a voluntary remand of the parts of the rule under challenge, the Fifth Circuit Court of Appeals remanded the rule in its entirety.[13]

EPA has not taken new action with respect to the RPGs for WMWA in Oklahoma. Ultimately, as discussed elsewhere in this action, whether it is the State's RPGs established in the 2010 RH SIP or the EPA's revised RPGs in the January 2016 action that are evaluated, our review of the State's 2016 progress report indicates that Oklahoma's emission reductions and measured visibility conditions are on track to meet those goals.

As we state in the Regional Haze Rule, the RPGs set by the state are not enforceable.[14] The RPGs represent the State's best estimate of the degree of visibility improvement that will result at the State's Class I areas from changes in emissions—changes driven by the particular set of control measures the state has adopted in its regional haze SIP to address visibility, as well as all other enforceable measures expected to reduce emissions over the period of the SIP. Given the forward-looking nature of RPGs and the range of assumptions that must be made as to emissions a decade or more in the future, we expect there to be some uncertainty in a given State's visibility projections.[15]

B. Oklahoma's Regional Haze Progress Report

Each state is required to submit a progress report that evaluates progress towards the RPGs for each Class I area within the state and for each Class I area outside the state which may be affected by emissions from within the state. 40 CFR 51.308(g). In addition, the provisions of 40 CFR 51.308(h) require states to submit, at the same time as the progress report, a determination of the adequacy of the state's existing regional haze implementation plan.[16] The progress report for the first planning period is due five years after submittal of the initial regional haze SIP and must take the form of a SIP revision. Oklahoma submitted its initial regional haze SIP on February 18, 2010.

On September 28, 2016, Oklahoma submitted its progress report in the form of a SIP revision under 40 CFR 51.308, which, among other things, detailed the progress made in the first planning period toward implementation of the long-term strategy (LTS) outlined in the State's regional haze plan. The progress report also included the visibility improvement measured at the WMWA, the only Class I area within Oklahoma, an assessment of whether Class I areas outside of the State are potentially impacted by emissions from Oklahoma, and a determination of the adequacy of the existing implementation plan.

II. EPA's Evaluation of Oklahoma's Progress Report and Adequacy Determination

A. Regional Haze Progress Report

The progress report provides an opportunity for public input on the State's (and the EPA's) assessment of whether the regional haze SIP is being implemented appropriately and whether reasonable progress is being achieved consistent with the projected visibility improvement in the SIP. This section includes EPA's analysis of Oklahoma's 2016 progress report, and an explanation of the basis for the Agency's proposed approval.

1. Control Measures

In its progress report, Oklahoma summarizes the status of the emissions reduction measures that were relied upon by Oklahoma in its regional haze plan. The major control measures identified by the State in the progress report are as follows:

- Best Available Retrofit Technology (BART) Controls
- Oklahoma Control Measures from:
  (1) Air Quality Permits
  (2) Prevention of Significant Deterioration
  (3) Compliance and Enforcement
  (4) Mobile Emissions
  (5) Cross-State Air Pollution Regulations
  (6) Other Measures
- Additional Air Pollution Emission Reductions

a. Best Available Retrofit Technology (BART) Controls

On July 6, 2005, EPA published final amendments to its regional haze rule, which requires emission sources that fit specific criteria to install BART controls.[17] The 2010 regional haze SIP originally determined that there were twenty facilities[18] in Oklahoma with BART-eligible sources.[19] Oklahoma determined six facilities with a combined total of thirteen (now twelve[20]) units, were subject-to-BART[21]

[12] See 81 FR 313: "The Regional Haze Rule required that Oklahoma use the consultation process under 40 CFR 51.308(d)(1)(iv) in the development of reasonable progress goals in tandem with Texas. Nevertheless, throughout the consultations, Oklahoma failed to explicitly request that Texas further investigate whether reasonable controls were available or that Texas reduce emissions from these significantly impacting sources to ensure that all reasonable measures to improve visibility were included in Texas' long-term strategy and incorporated into Oklahoma's reasonable progress goals for the Wichita Mountains. This failure resulted in the development of improper reasonable progress goals for the Wichita Mountains."

[13] *Texas, et al* v. *EPA, et al,* No. 16–60118 (March 22, 2017).

[14] See 64 FR 35733: ". . . the reasonable progress goal is a goal and not a mandatory standard which must be achieved by a particular date as is the case with the NAAQS. Once a State has adopted a reasonable progress goal and determined what progress will be made toward that goal over a 10-year period, the goal itself is not enforceable. All that is 'enforceable' is the set of control measures which the State has adopted to meet that goal. If the State's strategies have been implemented but the State has not met its reasonable progress goal, the State could either: (1) revise its strategies in the SIP for the next long-term strategy period to meet its goal, or (2) revise the reasonable progress goals for the next implementation period. In either case, the State would be required to base its decisions on appropriate analyses of the statutory factors included in 40 CFR 51.308(d)(1)(i)(A) and (B) of the final rule."

[15] See 40 CFR 51.308(d)(1)(v).

[16] The Regional Haze Rule requires states to provide in the progress report an assessment of whether the current "implementation plan" is sufficient to enable the states to meet all established RPGs under 40 CFR 51.308(g). The term "implementation plan" is defined for purposes of the Regional Haze Rule to mean any SIP, FIP, or Tribal Implementation Plan. As such, the Agency may consider measures in any issued FIP as well as those in a state's regional haze plan in assessing the adequacy of the "existing implementation plan" under 40 CFR 51.308(g) and (h).

[17] See 70 FR 39103 through 39172 (July 6, 2005).

[18] See Table VI–1 of the 2010 regional haze SIP (page 71).

[19] BART-eligible sources are those sources that have the potential to emit 250 tons or more of visibility-impairing pollutants, were put in place between August 7, 1962 and August 7, 1977, and whose operations fall within one or more of 26 specifically listed source categories.

[20] AEP/PSO's Northeastern Power Station closed EGU#4 effective April 2016.

[21] Under the Regional Haze Rule, states are directed to conduct BART determinations for "BART-eligible" sources that may be anticipated to cause or contribute to any visibility impairment in a Class I area. Sources that are reasonably anticipated to cause or contribute to any visibility

Continued

in the 2010 regional haze SIP.[22] EPA approved Oklahoma's identification of BART-eligible sources and determination of subject-to-BART sources in our 2011 final action.[23]

Section 2.4 of the progress report provides a discussion of BART requirements and implementation status. The current BART determinations for all subject-to-BART units in Oklahoma following the various, aforementioned series of SIP revisions and FIPs along with their implementation status, are listed in Table 1 below.

TABLE 1—CURRENT BART DETERMINATIONS

Facility	Unit	BART emission limits (in lb/MMBtu) [a]			BART conditions
		SO_2	NO_X	PM_{10}	
OG&E Muskogee Generating Station.	Unit 4—coal-fired. Unit 5—coal-fired	0.06 [b]	0.15	0.10	Meet low NO_X emission limits by 1/27/17 via installation of low-NO_X burners (LNB) with over-fire air (OFA). Completed installation of LNB for Unit 4 in June 2015; Unit 5 in December 2013. Meet lower PM emissions based on existing controls which included electro-static precipitators (ESP).[c] Units 4 and 5 are now planned to be converted over to natural gas in the Fall of 2018.[d]
OG&E Seminole Generating Station [e].	Unit 1—natural gas-fired. Unit 2—natural gas-fired Unit 3—natural gas-fired	Natural Gas as primary fuel, no additional control required for BART.	0.203 0.212 0.164	Natural Gas as primary fuel, no additional control required for BART.	Meet low NO_X emission limits by 1/27/17 via installation of LNB with OFA and flue gas recirculation (FGR). Installation was completed on 2 of the 3 units at the time of the progress report SIP submission (approximately May 2016 for Unit 1 and December 2015 for Unit 2) and the 3rd was completed in May 2017.[f]
OG&E Sooner Generating Station.	Unit 1—coal-fired. Unit 2—coal-fired	0.06 [b]	0.15	0.10	Meet low NO_X emission limits by 1/27/17 via installation of LNB with OFA Completed installation of the LNB for Unit 1 in March 2014; Unit 2 in April 2013. Meet lower PM emissions based on existing controls which included ESP.[g] Meet lower SO_2 emissions via installation of dry gas desulfurization to be installed by 1/4/19 per the FIP. Construction of scrubber currently ongoing for Unit 1. Unit 2 is scheduled to commence in Fall 2018.[h]
AEP/PSO Comanche Power Station [e].	Unit 1—natural gas-fired. Unit 2—natural gas-fired	Natural Gas as primary fuel, no additional control required for BART.	0.15	Natural Gas as primary fuel, no additional control required for BART.	Meet low NO_X emission limits by 1/27/17 via installation of LNB. Installation completed (April 2016).[i]

impairment in a Class I area are determined to be subject-to-BART. For each source subject to BART, 40 CFR 51.308(e)(1)(ii)(A) requires that states identify the level of control representing BART after considering the factors set out in CAA section 169A(g).

[22] See Table VI–4 of the 2010 regional haze SIP (page 73) and Table 2.1 of the progress report.

[23] See 76 FR 81728 (December 28, 2011).

TABLE 1—CURRENT BART DETERMINATIONS—Continued

Facility	Unit	BART emission limits (in lb/MMBtu) [a]			BART conditions
		SO_2	NO_X	PM_{10}	
AEP/PSO Northeastern Power Station [e] [j].	Unit 2—natural gas-fired. Unit 3—coal-fired Unit 4—coal-fired (Retired as of April 2016).	Natural Gas as primary fuel, no additional control required for BART. 0.40	0.28 0.15	Natural Gas as primary fuel, no additional control required for BART. 0.10	Meet low NO_X emission limits by 1/27/17 via installation of LNB with OFA Completed installation in March 2014.[k] Meet interim NO_X and SO_2 emission limits until 4/16/16 when one of the two units would shut down (*Unit 4 shut down on 4/16/16*). Remaining unit (#3) must meet lower SO_2 and NO_X emission limits via installation of LNB with OFA, and further control system tuning. Installation of the LNB was completed in April 2012; and modifications to install SO_2 controls have not yet begun.[h] Remaining unit (#3) also must incrementally decrease capacity utilization during the period from 2021 to 2026; and completely shut down by 12/31/2026.[l]
AEP/PSO Southwestern Power Station [e].	Unit 3—natural gas-fired.	Natural Gas as primary fuel, so no BART requirement for SO_2 control systems.	0.45	Natural Gas as primary fuel, so no BART requirement for PM control systems.	Meet low NO_X emission limits by 1/27/17 via installation of LNB with OFA Completed installation in May 2014.[m]

[a] The facilities are currently operating under the federally-enforceable BART-subject emission limits set forth in 76 FR 81728, December 28, 2011, unless otherwise noted.
[b] EPA disapproved Oklahoma's SO_2 BART determinations and issued a FIP covering the BART-subject units at the facility (40 CFR 52.1923 (2015)). Under this FIP, each unit must meet lower SO_2 emission limits (0.06 lbs/MMBtu Boiler Operation Day) based on installation of emission controls, including dry flue gas desulfurization. Due to litigation over EPA's decision, the deadline by which these units are required to meet their new SO_2 emission limits contained in the FIP is January 4, 2019.
[c] See page 12 of the progress report SIP.
[d] See email response from ODEQ dated June 11, 2018 which has been included in docket for this proposed rulemaking: Units 4 and 5 were converted to natural gas in February 2017.
[e] Natural gas units are considered "grandfathered" and currently do not have specific emission limits established in the current permit. The BART NO_X and PM_{10} emission limits for each of the affected units are based on a 30-day rolling average in accordance with the federally-enforceable BART subject emission limits.
[f] See page 10 of the progress report SIP; and Email response from ODEQ dated June 11, 2018 which has been included in docket for this proposed rulemaking.
[g] See page 11 of the progress report SIP.
[h] See email response from ODEQ dated June 11, 2018 which has been included in docket for this proposed rulemaking.
[i] See page 10 of the progress report SIP.
[j] EPA disapproved Oklahoma's SO_2 BART determinations for Units 3 and 4 at the facility and issued a FIP covering these units. Subsequently, DEQ developed and submitted, and EPA approved, a revision to the Oklahoma regional haze SIP, which replaced the FIP as it related to EPA's SO_2 BART requirements for Units 3 and 4, as well as revised Oklahoma's original NO_X BART requirements for Units 3 and 4 (79 FR 12954, March 3,2014).
[k] See page 12 of the progress report SIP.
[l] See page 13 of the progress report SIP.
[m] See pages 10–11 of the progress report SIP.

b. Other Oklahoma Control Measures

In its original 2010 regional haze plan, ODEQ cited various air quality rules and programs as part of its long-term strategy for addressing the visibility impairment at WMWA. These efforts include comprehensive permitting, compliance and enforcement programs, an emissions inventory system, and a state-wide ambient air monitoring network.

The progress report states that ODEQ:

- Operates a robust permitting program that addresses both major and minor source facilities. Regular inspections are performed so as to ensure compliance with all permit requirements, applicable statutes, rules and regulations. Additionally, ODEQ's permitting program incorporates new source performance standards (NSPS) and national emission standards for hazardous air pollutants (NESHAP) via its permitting, compliance, and enforcement programs.
- Addresses visibility impairment for new or modified major stationary sources via its Prevention of Significant Deterioration (PSD) Requirements for Attainment Areas permitting process.[24] The PSD permitting rules limit the establishment of air pollution sources which may contribute to visibility impairment and other air pollution problems.

[24] OAC 252:100, Subchapter 8, Part 7.

• Addresses violations of its air-related environmental rules by actively pursuing compliance and enforcement actions as appropriate in its ongoing efforts to preserve air quality in the state and surrounding areas. In doing so, these actions also have the added effect of reducing emissions that contribute to visibility impairment at WMWA (and other nearby mandatory Class I areas).

• Relies upon federal regulations on new motor vehicles to limit air pollutant emissions from on-road mobile sources. These federal standards result in emission reductions of PM, O_3 precursors, and non-methane organic compounds. The State anticipates that based on historical trends, the slow decline in motor-vehicle emissions are likely to continue in the future.

• Intends to consider any future *Cross-State Air Pollution Rule* (CSAPR)-related [25] reductions and their effects in any succeeding SIP revision for regional haze. EPA's ongoing updates to CSAPR to address interstate transport for the 2008 ozone National Ambient Air Quality Standard (NAAQS) may lead to additional reductions in emissions that contribute to visibility impairment from sources in Oklahoma, Texas, and various other upwind states.

• Adopted efforts to address controlled and open-burning practices within the state:

○ In 2013, Oklahoma adopted a voluntary Smoke Management Plan (SMP) [26] to address agriculture and forestry smoke.[27]

○ ODEQ also revised its open-burning rules,[28] restricting its use in certain land-clearing operations for several metropolitan counties.

Additionally, the State has made various other updates and modifications to its air quality rules and regulations, which it contends will produce indirect benefits for visibility. These include:

• Incorporation by reference of the latest changes and additions to the federal NSPSs and NESHAPs,

• Updates to minor-facility and major-source permitting requirements, and

• Updates to OAC 252:100, Subchapter 31, Control of Emission of Sulfur Compounds.

Subsequently, since the aforementioned, additional existing control measures also address some of the same emissions that contribute to regional haze and visibility impairment at Class I areas, they are anticipated to have a positive effect on the visibility at WMWA.

c. Additional Air Pollution Reductions

Nationally, there have been several regulatory and economic developments which resulted in reduced emissions of visibility impairing pollutants since the preparation of the initial Oklahoma SIP revision for regional haze. In the progress report SIP, ODEQ discusses the anticipated benefit from efforts designed to meet new NAAQS standards that have been established since the 2010 Regional Haze submittal. Acknowledging the recent trend towards the use of cleaner fuels for many industrial operations and particularly for EGUs, ODEQ's progress report indicates that the resulting lower emissions, particularly of SO_2, would also equate to progress towards the goal of natural visibility conditions at WMWA. Additionally, ODEQ cited the potential impacts of ongoing emissions reductions in multiple pollutants resulting from the EPA's 2013 mercury and air toxics standards (a.k.a. the ''MATS'' rule), as further contributing to visibility improvement. ODEQ did not perform any technical analyses to quantify the visibility benefits of these developments in its progress report, although it acknowledges that they likely contributed considerably to observed visibility improvement for the state.

EPA proposes to find that Oklahoma has adequately addressed the applicable provisions under 40 CFR 51.308(g) regarding the implementation status of control measures because the State adequately described the status of the implementation of all measures included in the implementation plan for achieving reasonable progress goals for mandatory Class I Federal areas both within and outside the State.

2. Emissions Reductions

In its progress report, ODEQ presents emissions data showing emission trends and reductions due to controls. The State identified Sulfureous Particulate (sulfate), Nitrate Particulate (nitrate), and Organic Carbonaceous Particulate (organic carbon (OC)) as the three largest contributors to visibility impairment at Oklahoma's WMWA Class I area [29] for the first implementation period for regional haze. Many of the sources that produce these visibility-impairing pollutants in Oklahoma are anthropogenic in nature and are controllable. In 2002, point sources emitted 87.5 percent of Oklahoma SO_2 emissions and 31.6 percent of Oklahoma NO_X emissions.[30] Emissions from Oklahoma sources contributed to 13.25 percent of the overall visibility impairment [31] in Oklahoma's WMWA Class I area. EGUs accounted for 65 percent of the total Oklahoma SO_2 emissions [32] and 17 percent of the total Oklahoma NO_X emissions.[33]

As part of the emission data submitted by the State, the State reported point source emission data for NO_X and SO_2 for the 2002 baseline year and 2011 (the latest official National Emissions Inventory (NEI)-Oklahoma emissions inventory data available at the time the progress report was submitted).[34] The data presented does not reflect any emission reductions from BART-eligible sources due to BART limits, since the six required sources in question had yet to install their respective BART control measures (see Table 1 above). Additionally, the State provided projected emissions data for 2018. Overall point source emissions of NO_X increased slightly from 2002 to 2011, while SO_2 point source emissions decreased by approximately 30,000 tons per year over the same period. EPA reviewed additional, more recent EGU emissions data and, even without emission reductions from all BART limits, the available EGU emissions data through 2017 show large reductions from the 2002 baseline.

Table 2 below, provided by the EPA to evaluate EGU emissions post-2011, shows that NO_X and SO_2 EGU point source emissions have decreased during the 2011 to 2017 time-period. In 2017, the SO_2 emissions were 50,270 tpy lower than the 2011 annual levels while

[25] CSAPR, as originally promulgated, required 28 eastern states to reduce power plant emissions that contribute to pollution from O_3 and $PM_{2.5}$ in other states. The rule requires reductions in O_3 season NO_X emissions that crossed state lines for states under the O_3 requirements, and reductions in annual SO_2 and NO_X emissions for states under the $PM_{2.5}$ requirements. To assure emissions reductions, the EPA promulgated FIPs for each of the states covered by the rule. The EPA set pollution limits (emission budget) for each state covered by CSAPR. Allowances are allocated to affected sources based on these state emission budgets.

[26] See the *Oklahoma Smoke Management Plan* (February 28, 2013). Recognizing the benefits of prescribed and wildland fires to forest management, wildlife management, and agriculture, the SMP was developed by the Oklahoma Department of Agriculture, Food, and Forestry (ODAFF) and ODEQ in cooperation with federal and private stakeholders in an effort to mitigate smoke emissions from prescribed and wildland fires.

[27] 40 CFR 51.308(d)(3)(v)(E) requires Oklahoma to consider smoke management techniques for the purposes of agricultural and forestry management.

[28] See OAC 252:100–13.

[29] See Table 5–1 from the progress report SIP (September 2016) and Table V–8 of the Regional Haze State Implementation Plan (February 2010).

[30] See Table IV–1 of the Regional Haze State Implementation Plan (February 2010).

[31] See Table V–7 of the Regional Haze State Implementation Plan (February 2010).

[32] See Table IV–3 of the Regional Haze State Implementation Plan (February 2010).

[33] See Table IV–5 of the Regional Haze State Implementation Plan (February 2010).

[34] See Table 5–2 in the Oklahoma progress report (page 20).

NO_X emissions were 56,786 tpy lower. These results represent an additional 54 percent reduction in SO_2 emissions and 73 percent reduction in NO_X emissions from EGUs since 2011. Overall, from the 2002 baseline year, EGU SO_2 emissions have reduced by 60 percent and EGU NO_X emissions have reduced by 75 percent.

TABLE 2—ANNUAL NO_X AND SO_2 EMISSIONS FROM EGU POINT SOURCES IN OKLAHOMA *

Year	NO_X (tons)	SO_2 (tons)	Heat input (MMBtu)	NO_X Emission rate (lb/MMBtu)	SO_2 Emission rate (lb/MMBtu)
2002	85,999	106,318	553,566,474	0.311	0.384
2003	86,502	109,803	574,470,072	0.301	0.382
2004	78,217	100,098	558,112,281	0.280	0.359
2005	85,019	103,985	606,763,914	0.280	0.343
2006	82,810	106,091	620,400,705	0.267	0.342
2007	76,529	100,111	622,537,676	0.246	0.322
2008	79,989	101,320	647,315,009	0.247	0.313
2009	73,357	95,307	626,058,610	0.234	0.304
2010	71,439	85,135	603,295,697	0.237	0.282
2011	77,983	92,351	628,579,599	0.248	0.294
2012	64,338	77,128	619,284,535	0.208	0.249
2013	49,178	74,632	558,628,131	0.176	0.267
2014	37,562	72,855	519,423,413	0.145	0.281
2015	28,097	61,971	531,490,156	0.106	0.233
2016	24,895	49,485	502,603,800	0.099	0.197
2017	21,197	42,081	430,070,391	0.099	0.196

* Source: U.S. EPA Clean Air Market Division *www.epa.gov/airmarkt/.*

A more-detailed breakdown of the distribution of emission trends for each contributing pollutant species from all sources can be seen in *Section 4. Emission Tracking,* of this proposed action.

The EPA's NEI total point source data for Oklahoma in Table 3 shows that reported PM emissions remained relatively consistent from their NEI baseline totals for the first implementation period. Total 2014 NO_X and SO_2 point sources emissions are lower than the 2002 baseline emission levels.

TABLE 3—NEI TOTAL POINT SOURCE EMISSION DATA FOR OKLAHOMA FOR 2002–2014 [a]

Year [b]	NO_X (tpy)	SO_2 (tpy)	$PM_{2.5}$ (tpy)	PM_{10} (tpy)
2002	163,417	150,388	7,106	12,744
2005	100,681	113,344	3,551	7,044
2008	142,157	137,047	6,638	14,390
2011	161,396	118,921	7,557	13,736
2014	122,346	102,524	6,764	11,225

[a] As reported in the online EPA Emissions Inventory System (EIS) Gateway database for point sources only.
[b] Comprehensive NEI data is generated every three years.

In addition to the above reductions, ODEQ's progress report mentions that it anticipates some additional future reductions in SO_2 and NO_X emissions due to more stringent CSAPR budgets that apply to EGUs in Texas and most eastern states.[35] These emissions contribute to or are precursors for the formation of sulfurous and nitrate PM, which together comprise the majority of haze affecting the WMWA. Also, as mentioned earlier, BART controls at Oklahoma-based EGUs (OG&E's Muskogee and Sooner plants had until January 2019 to complete their installation of BART controls per the recent FIP) are also expected to result in further haze-forming emissions reductions from within the State.

The EPA proposes to conclude that the State adequately addressed the requirements under 40 CFR 51.308(g) with its summary of emission reductions of visibility-impairing pollutants. Overall, the State demonstrated the emission reductions achieved for visibility-impairing pollutants in the State for the first implementation period. Emissions of SO_2, NO_X, and PM, the main contributors to regional haze in Oklahoma, have all been decreasing. Even before additional BART limits and lower CSAPR budgets have been fully implemented, the SO_2 and NO_X haze pollutant precursors from EGU point sources in the State have decreased from the baseline levels in 2002. In addition, with the promulgation of the CSAPR Update in September of 2016, which included Oklahoma and Texas EGUs within the ozone-season NO_X budget trading program and applied in 20 other eastern states, reduced NO_X emissions were required beginning in the 2017 ozone season.[36]

3. Visibility Conditions

In their progress report, ODEQ provides information on visibility conditions for the Class I area within Oklahoma's borders. The progress report addressed current visibility conditions,

[35] Since the submission of Oklahoma's Progress Report, the CSAPR SO_2 budget for Texas has been replaced by the Texas Intrastate Regional Haze Bart-alternative SO_2 trading program—EPA finalized its determination that the intrastate trading program is an appropriate SO_2 BART alternative for EGUs in Texas (see 82 FR 48324 October 17, 2017 and 83 FR 43586, August 27, 2018). Any additional future reductions in SO_2 attributed to Texas would be the result of said trading program.

[36] See 81 FR 74506 (October 26, 2016).

the difference between current visibility conditions and baseline visibility conditions (expressed in terms of five-year averaged of these annual values, with values for the haziest (*i.e.,* most impaired), and clearest (*i.e.,* least impaired) days), and the change in visibility impairment.

Oklahoma's progress report provides figures with visibility monitoring data for WMWA. Additionally, EPA has obtained and examined visibility data for more recent five-year time periods from the IMPROVE network's monitoring data. Table 4, below, shows the visibility conditions from 2002–16, compared to the natural/baseline visibility conditions in deciviews (dv).

TABLE 4—IMPROVE VISIBILITY TRENDS FOR THE WICHITA MOUNTAINS WIMO1 MONITOR *

Year	Annual average haze index, haziest days (dv)	Natural condition haze index, haziest days (dv)	Annual average haze index, clearest days (dv)	Natural condition haze index, clearest days (dv)
2002	23.6		9.8	
2003	23.6		10	
2004	24.2		9.6	
2005	25.7	7.5	10.6	3
2006	21.8		9.7	
2007	22.8		9.3	
2008	21.6		9.8	
2010	21.8		9.2	
2011	22.9		10.3	
2012	20.2		8.9	
2013	20.3		8.4	
2014	21.2		9.3	
2015	18.8		8.5	
2016	17.2		8.1	

* See the IMPROVE Visibility Trend Charts for the Wichita Mountains WIMO1 monitor: *http://vista.cira.colostate.edu/Improve/aqrv-summaries/*.

Although visibility conditions have varied from year to year, Table 6–8 of the progress report shows that WMWA has displayed an overall improvement in visibility since 2001. At the time the progress report was produced, WMWA showed improved visibility when comparing the 2000 to 2004 baseline period to the 2009 to 2013 visibility period (the most recent five-year average presented in ODEQ's progress report) during the most impaired days of the first implementation period. The progress report's most recent five-year average of 21.25 dv [37] shows that as of 2013, WMWA met the 2010 regional haze SIP RPGs for the twenty percent most impaired days.[38] The WMWA Class I area also showed improvement from the 2000 to 2004 baseline on the twenty percent least impaired days for the first implementation period. Visibility conditions at WMWA had improved nearly enough to meet the RPG for 2018 for the best quintile of days,[39] with a five-year average of 9.25 dv.[40]

That being said, the 2010 Regional Haze SIP RPGs for the twenty percent least impaired and most impaired days for WMWA were disapproved as part of the previously mentioned, EPA FIP of January 2016 and replaced with revised RPGs developed by EPA. Though the FIP was stayed at the time the State submitted the progress report SIP, the State included these revised RPGs (for 2018 standards) of 9.22 dv and 21.33 dv for best and worst quintiles, respectively, in its progress report. When comparing the 2018 RPGs calculated by EPA in its final action with the observed five-year visibility trends reported in the State's progress report, WMWA has exceeded the visibility improvements needed to meet the goal for the worst quintile days; and was close to meeting the goal for the best quintile days (9.25 versus 9.22 dv) as of 2013.

IMPROVE's data from 2001–16 demonstrates that visibility for the haziest/worst days at the Wichita Mountains monitoring site has been improving at a rate of 0.41 dv/year.[41] The average visibility for WMWA on the worst days has been below the 2018 RPGs calculated by EPA since the 2009–14 five-year period, as seen in Table 5. Most recently, the 2012–16 period showed the visibility at the Wichita Mountains to be 19.54 dv, 1.79 dv below the EPA calculated 2018 RPGs. We note that the visibility conditions needed to meet the uniform rate of progress for 2018 is 20.01 dv for the twenty percent most impaired days.

TABLE 5—VISIBILITY CONDITIONS AT WMWA CLASS I AREA FOR THE TWENTY PERCENT WORST DAYS

Class I area	Baseline (2000–2004) (dv)	(2007–2011) [a] (dv)	(2008–2012) [a] (dv)	(2009–2013) [a] (dv)	(2010–2014) [b] (dv)	(2011–2015) [b] (dv)	(2012–2016) [b] (dv)	2018 FIP-revised RPGs (dv)	Most recently available data v. baseline data (dv)
Wichita Mountains Wilderness Area	23.83	22.26	21.61	21.25	21.28	20.68	19.54	21.33	−2.5

[a] 4-yr average b/c there was no available data for 2009.
[b] Source: IMPROVE Visibility Trend monitoring data for Wichita Mountains.

[37] See Table 6–8 on pages 27–28 of the progress report.

[38] In the 2010 Regional Haze SIP, WMWA had a visibility impairment reduction goal of 2.33 dv (See Table IX–3, pg. 107) to reach a RPG of 21.47 dv by 2018 for ''worst days'' (See Table IX–4, pg. 109).

[39] In the 2010 Regional Haze SIP, WMWA had a RPG of 9.23 dv by 2018 for ''best days'' (page 104). See Table 6–8 (pages 27–28) and the chart on page 29 of the progress report.

[40] See Table 6–8 on pages 27–28 of the progress report.

[41] Source: IMPROVE Visibility Trend monitoring data for Wichita Mountains: *http://vista.cira.colostate.edu/Improve/aqrv-summaries/*.

IMPROVE's clearest/best days monitoring data from 2001 to 2016 indicates that the haze index values at the WMWA monitor has been declining at a rate of 0.12 dv/year.[42] The average visibility for WMWA on the clearest of days has been below the 2018 RPGs calculated by EPA since the 2010 to 2015 five-year period as seen in Table 6. Most recently, the 2012 to 2016 period showed the best days' visibility at the Wichita Mountains to be 0.58 dv below the 2018 RPGs.

TABLE 6—VISIBILITY CONDITIONS AT WMWA CLASS I AREA FOR THE TWENTY PERCENT BEST DAYS

Class I area	Baseline (2000–2004) (dv)	(2007–2011) [a] (dv)	(2008–2012) [a] (dv)	(2009–2013) [a] (dv)	(2010–2014) [b] (dv)	(2011–2015) [b] (dv)	(2012–2016) [b] (dv)	2018 FIP-revised RPGs (dv)	Most recently available data v. baseline data (dv)
Wichita Mountains Wilderness Area	9.92	9.80	9.65	9.25	9.22	9.08	8.64	9.22	−1.28

[a] 4-yr average b/c there was no available data for 2009.
[b] Source: IMPROVE Visibility Trend monitoring data for Wichita Mountains.

EPA proposes to conclude that Oklahoma has adequately addressed the applicable provisions under 40 CFR 51.308(g) regarding assessment of visibility conditions because the State provided baseline visibility conditions (2000 to 2004), current conditions based on the most recently available visibility monitoring data available at the time of progress report development, the difference between these current sets of visibility conditions and baseline visibility conditions, and the change in visibility impairment from 2009–13. The WMWA has shown improved visibility for the most impaired and least impaired days since 2001 and is projected to continue to improve with additional future emission reductions due to BART and other measures.

4. Emissions Tracking

In its progress report SIP, the State presents NEI emission inventories for the 2002 baseline year and 2011, as well as projected inventories for 2018.[43] The pollutants inventoried include SO_2, NO_X, NH_3, VOC, $PM_{2.5}$ (*i.e.,* fine particulates), and PM_{10}–$PM_{2.5}$ (*i.e.,* coarse particulates). The inventories were categorized for all major visibility-impairing pollutants under biogenic and major anthropogenic source groupings. The anthropogenic source categorization included on and non-road mobile sources; point sources; and area sources. The 2011 NEI inventory was the latest comprehensive inventory available at the time the State prepared its progress report SIP revision in 2016.

Reductions in emissions from the baseline year to 2011 occurred in every pollutant with the exception of VOCs and coarse particulates, which increased by 16 percent and 79 percent respectively. The dramatic increase in coarse particulates can be attributed to drought conditions which developed in late 2010 and intensified in 2011 for the WMWA. The three-month period of June through August of 2011 ranked as the ''hottest [summer] ever recorded in any state.'' [44] ODEQ asserts that the dry conditions and intense heat resulted in an increase in coarse PM from the resulting dust storms.[45] Total NO_X and SO_2 emissions were reduced by 54,211 and 46,372 tpy, with the largest reductions of NO_X being realized from the on-road and non-road mobile sources categories; and two thirds of the SO_2 reductions attributed to point sources. [46]

For comparison purposes, EPA provides additional 2008 and 2014 NEI data.[47] A breakdown of the total emissions for the state can be seen below in Table 7.

TABLE 7—COMPARISON OF TOTAL STATE EMISSIONS TO CENRAP 2018 PROJECTIONS

Pollutant species	2002 State reported baseline emissions (tpy)	2008 NEI total emissions (tpy) *	2011 NEI total emissions (tpy)	2014 NEI total emissions (tpy) *	CENRAP 2018 projections (tpy)
SO_2	170,021	148,710	123,649	109,210	119,776
NO_X	502,122	463,951	447,911	385,782	369,248
NH_3	143,179	112,650	112,230	112,863	182,605
VOCs	1,375,653	1,356,355	1,600,734	1,505,886	1,581,788
$PM_{2.5}$	124,954	168,554	103,638	133,381	142,252
PM_{10}	438,852	809,223	666,672	488,258	429,945

* Provided by the EPA from the EIS gateway database

In its 2010 Regional Haze SIP, ODEQ determined that the primary visibility-impairing pollutants in Oklahoma include SO_2, NO_X, and PM (both PM_{10} and $_{2.5}$). Oklahoma provides in its progress report SIP a comparison of the inventories for all potential visibility-impairing pollutants for 2002 (the baseline year), recent NEI data for 2011, and CENRAP-projected data for 2018.[48] This span is sufficiently representative of emission levels for the purpose of EPA's review of the progress report. A comparison of the data for these years shows that total state emissions have decreased for all of the visibility-impairing pollutants except for VOCs and PM_{10}, which had slight to modest increases (14% and 34%) over 2008, respectively. VOC emissions increased by 225,081 tpy since 2002, but CENRAP

[42] Source: IMPROVE Visibility Trend monitoring data for Wichita Mountains: *http://vista.cira.colostate.edu/Improve/aqrv-summaries/*.

[43] Emission development and air quality modeling were performed by the Central Regional Air Planning Association (CENRAP) in support of SIP development in the central states region for 2002 and projected 2018 emissions.

[44] See page 18, Section 4.4 of the progress report.

[45] *Ibid.*

[46] See Table 5–2 (page 20) of the progress report.

[47] As reported in the online EPA Emissions Inventory System (EIS) Gateway database for total state emissions.

[48] Page 20 of the progress report.

modeling has demonstrated that anthropogenic VOCs do not significantly impair visibility at WMWA. Total PM_{10} levels appear to have spiked briefly after 2002 and then began to steadily decline. More recently available 2014 NEI data shows that, other than PM_{10} levels, the emissions inventory for all pollutants is currently below the CENRAP 2018 Projections. Despite not already having met the 2018 projections, Oklahoma's PM_{10} emissions declined nearly 40 percent from 2008 levels.

The projected 2018 CENRAP data also showed that there is an anticipated overall downward trend in SO_2, and NO_X. The decrease in SO_2 is especially noteworthy as sulfurous emissions contribute the most to visibility impairment at WMWA. (Nitrate particulate matter forms from NO_X emissions but occurs predominantly during the winter months; whereas sulfurous aerosol comprises the plurality during the rest of the year.) [49]

Because of the limiting role of NO_X and SO_2 on $PM_{2.5}$-formation, and the uncertainties in assessing the effect of NH_3 emission reductions on visibility, Oklahoma does not consider ammonia among the visibility-impairing pollutants.[50]

When considered as a whole, the above indicates that the main precursors that cause the formation of haze and visibility impairment in Oklahoma are being reduced.

Table 8 below shows the inventoried categories that were the driving factors behind the total emission trends. Nearly every category across the inventory showed emission decreases for each pollutant. The total emissions change for each pollutant, except NH_3 and VOCs, showed a reduction from 2008 to 2014. The trends were consistent with the emission trends shown in section II, A, 2 of this proposed action, which also showed the latest updates for EGUs.

TABLE 8—2014 EMISSION DATA (TPY) AND THE CATEGORY CHANGES SINCE 2008 FOR OKLAHOMA *

Category	NO_X	SO_2	PM_{10}	$PM_{2.5}$	NH_3	VOC
Agricultural/Biogenic	37,854 (−5,637)	0	199,471 (+32,530)	38,845 (+5,457)	95,232 (−2,142)	1,041,372 (+180,237)
Area/Non-point	138,795 (−8,375)	1,759 (−2,976)	421,375 (−305,703)	79,251 (−23,170)	100,409 (+2,166)	1,283,217 (+173,338)
Fires	9,707 (−1,661)	4,362 (−901)	56,858 (−4,145)	47,146 (−4,819)	11,798 (+2,633)	111,238 (−21,782)
Fugitive Dust	0	0	20,292 (−11,924)	2,029 (−1,193)	0	0
Road Dust	0	0	175,729 (−329,400)	19,815 (−33,262)	0	0
Non-road Mobile	20,462 (−7,180)	44 (−472)	2,004 (−703)	1,912 (−677)	31 (+2)	20,885 (−10,011)
On-road Mobile	92,071 (−43,267)	450 (−757)	4,986 (−661)	2,834 (−1,519)	1,600 (−555)	42,735 (−14,225)
Point Sources	126,000 (−17,071)	102,846 (−34,270)	11,486 (−3,056)	8,361 (−619)	3,292 (+233)	50,777 (+23,871)
Total Emission Change	−83,191	−39,376	−623,062	−59,802	+2,337	+331,428

Note: The numbers in parentheses indicate an increase (+) or decrease (−) in emissions from 2008.
* As reported in the online EPA Emissions Inventory System (EIS) Gateway database.

EPA is proposing to find that the State adequately addressed the provisions of 40 CFR 51.308(g) regarding emissions tracking because the State compared the most recent updated emission inventory data for the key visibility impairing pollutants across Oklahoma available at the time of progress report development with the baseline emissions used in the modeling for the regional haze plan. The results showed that the emissions from SO_2, NO_X, and PM, the main contributors of regional haze in Oklahoma, have all been decreasing since 2008. The State's analysis relied on the latest emissions data available to them at the time (2002 to 2011); [51] and the EPA provided additional updates for 2008 and 2014.

5. Assessment of Changes Impeding Visibility Progress

Oklahoma also provided an assessment of any significant changes in anthropogenic emissions within or outside the State that could limit or impede reasonable progress. Data presented in the State's progress report [52] indicates that there were no significant changes in anthropogenic emissions that have limited or impeded progress in reducing pollutant emissions and improving visibility. Visibility Conditions as the WMWA Class I area demonstrated overall downward trends in Haze Index values for both its best (*i.e.,* ''clearest'') and worst (*i.e.,* ''haziest'') days. EPA proposes to agree with Oklahoma's conclusion that there have been no significant changes in emissions of visibility-impairing pollutants which have limited or impeded progress in reducing emissions and improving visibility in Class I areas impacted by the State's sources. Although Oklahoma continues to experience visibility impacts from sources outside the State that affect the WMWA Class I area,[53] this progress report demonstrates that, the State remains on track to meet both its original and the EPA-determined 2018 RPGs for the Class I area in Oklahoma. EPA is not evaluating at this time whether existing trends in emissions are sufficient, or could impede or limit progress, with respect to any future RPGs for subsequent planning periods for Class I areas in Oklahoma.

[49] Page 66 of the 2010 Regional Haze SIP.

[50] Page 69 of the 2010 Regional Haze SIP. EPA agreed with Oklahoma's decision to exclude ammonia in our December 2011 final rile. 76 FR 81727, 81754 (December 28, 2011).

[51] While ideally the five-year period to be analyzed for emission inventory changes is defined as the time period since the current regional haze SIP was submitted, there is an inevitable time lag in developing and reporting complete emissions inventories once quality-assured emissions data becomes available.

[52] See page 20 of the progress report.

[53] Oklahoma's initial SIP Revision for Regional Haze documented that the majority of visibility impairment at the Wichita Mountains results from emissions generated in Texas. EPA's examination and review of Oklahoma's reasonable progress consultation with Texas determined that additional emissions reductions from Texas were necessary to address visibility impairment at WMWA for the first implementation period ending in 2018, and issued a FIP for Texas to that effect, requiring additional emissions reductions from eight coal-fired electric power plants (See 81 FR 295). This action was subsequently stayed and later remanded.

6. Assessment of Current Strategy

The State concludes that it is on track to meet the 2018 RPGs for the WMWA based on the trends in visibility and emissions presented in its progress report. In its progress report SIP submittal, the State assesses the 2010 SIP elements and strategies and determines that, based upon emission trends and monitor data, they were sufficient to enable Oklahoma to meet all the originally established RPGs.[54] The state notes that the visibility at the WMWA has improved sufficiently to meet the originally established RPGs for 2018 during 2009–2013 for the 20% worst days and they anticipate further improvement in visibility as additional emission reductions occur due to implementation of BART controls.

The evaluation set forth by the State also shows that it is meeting the revised RPGs that EPA calculated in its currently stayed January 2016 FIP action for Texas and Oklahoma.[55] In its progress report, Oklahoma shows it was achieving greater visibility improvements than the EPA-calculated RPGs at WMWA for the worst quintile of days.[56] Based on more recently available monitored data, the State has also reached its 2018 goals for the best quintile days as well. We note that the recent monitored data showing visibility improvements at WMWA also meet the uniform rate of progress for 2018 of 20.01 dv for the twenty percent most impaired days.

EPA proposes to find that Oklahoma has adequately addressed the provisions of 40 CFR 51.308(g) regarding the strategy assessment. In its progress report SIP, Oklahoma describes the improving visibility trends using data from the IMPROVE network and the downward emissions trends in NO_X and SO_2 emissions in the State. These trends support the State's determination that its regional haze plan is sufficient to meet the 2018 RPGs for Class I areas within the State. Oklahoma also notes that additional improvement in visibility conditions are anticipated in the future after installation of all controls required to meet BART (see Table 1).

EPA's modeling data used to develop the previously mentioned FIP and SIP revisions for Oklahoma's subject-to-BART EGU sources, also demonstrated that the potential visibility impacts for Class I areas outside the state would be significantly reduced by implementation of the associated revised BART controls/limits.[57]

With regards to the effect of Oklahoma's emissions on other states with Class I areas, Oklahoma acknowledges the possible impact of its sources on Arkansas' Class I areas, Caney Creek and Upper Buffalo Wilderness Areas, but concludes that the impact on visibility conditions in those areas is negligible.[58] ODEQ could not identify any emissions from within the State that either prevented or inhibited reasonable progress at Class I areas outside the State, nor had they (ODEQ) been contacted any other state to assert such an interstate-transport impact.

In support of this assertion, we submit that Arkansas' Class I areas have seen marked improvement in visibility since the start of regional haze monitoring. Based on Arkansas' respective IMPROVE data, the haze index for the 20 percent worst days of visibility at both the Caney Creek and Upper Buffalo Wilderness Areas have been steadily improving as a result of reduced emissions within Arkansas and because of broader industrial and energy trends in other states. EPA's review of recent monitoring data[59] from Arkansas' Class I areas indicates that both Caney Creek and Upper Buffalo are well on track for demonstrating improved visibility for the most impaired and least impaired days since 2001.[60] Based on the five-year rolling averages, both wilderness areas are not only on schedule but have also outperformed their stricter revised 2018 RPGs for the twenty percent worst days[61] (22.47 and 22.51 dv; See Table 9).

TABLE 9—VISIBILITY CONDITIONS AT ARKANSAS CLASS I AREAS FOR TWENTY PERCENT WORST DAYS

Class I area	Baseline (2000–2004) (dv)	(2007–2011) (dv)	(2008–2012) (dv)	(2009–2013) (dv)	(2010–2014) (dv)	2018 Revised RPGs (dv)
Caney Creek Wilderness	26.36	22.99	22.69	22.23	21.83	22.47
Upper Buffalo Wilderness	26.27	24.15	22.99	22.16	21.63	22.51

Based on the above, the State's assertion that sources in Oklahoma are not interfering with the achievement of any other neighboring state's RPGs for their respective Class I areas for the first planning period appears valid.[62]

EPA is proposing to approve Oklahoma's finding that the elements and strategies in its implementation plan are sufficient to achieve the RPGs for the WMWA Class I area in the State and for any Class I areas in nearby states potentially impacted by sources in the State.

7. Review of Current Monitoring Strategy

The monitoring strategy for regional haze in Oklahoma relies upon participation in the Interagency Monitoring of Protected Visual Environments (IMPROVE) regional haze monitoring network. IMPROVE provides

[54] Note that states don't necessarily need to refer to specific RPGs to meet the requirements of 51.308(g)(6). If they're currently achieving more reductions than they anticipated when they developed their SIP, this demonstrates that they're on track to ensure RP in class I areas.

[55] On March 18, 2016, Texas filed a request for a stay of the FIP. On July 15, 2016, the court issued a stay of the FIP, including the emission control requirements. ODEQ notes that the RPG at WMWA presumably depends on the outcome of this litigation.

[56] See Table 6–8 on pages 27 to 28 of the progress report SIP.

[57] See *Comments on Modeling* section, 76 FR 81738–81739 (December 28, 2011).

[58] ODEQ noted in its progress report SIP revision (on page 30) that, ''Although it is rare that emissions from Oklahoma impact the Caney Creek and Upper Buffalo Wilderness Areas in Arkansas due to the location of large pollutant emitting sources in Oklahoma combined with the prevailing wind direction and topographical setup along the Oklahoma/Arkansas border, DEQ will continue to surveil these and other necessary Class I areas in other states.''

[59] See RPG Calculation Data Sheets, sip-rev-rpg-calcs.xlsx and visibility-progress.xlsx provided at *https://www.adeq.state.ar.us/air/planning/sip/regional-haze.aspx.*

[60] See figures 2 to 9 and tables 5 to 8 (pages 28 to 39) of the Arkansas Regional Haze SO_2 and PM SIP revision.

[61] See page 54 of the Arkansas Regional Haze SO_2 and PM SIP revision.

[62] In its 2011 SIP submittal, see 76 FR 64186 at 64196 (October 17, 2011), Arkansas concluded that the impact from Oklahoma sources (among other states) was non-impactful: ''ADEQ determined that additional emissions reductions from other States are not necessary to address visibility impairment at Caney Creek and the Upper Buffalo for the first implementation period ending in 2018, and all states participating in its consultations agreed with this.''

a long-term record for tracking visibility improvement or degradation. Oklahoma currently relies on data collected through the IMPROVE network to satisfy the regional haze monitoring requirement as specified in 40 CFR 51.308(d)(4) of the Regional Haze Rule. In its progress report SIP, Oklahoma summarizes the existing IMPROVE monitoring network and its intended continued reliance on it for future visibility planning. Measurements at the Wichita Mountains monitoring site began in March 2001 and were compiled via the IMPROVE ''WIMO1'' monitor.[63] The IMPROVE program makes data available on the internet and submits it to EPA's air quality system. For the progress report, Oklahoma evaluates its use of the IMPROVE monitoring network and found it to be satisfactory.

Oklahoma reaffirmed its continued reliance upon the IMPROVE monitoring network. Oklahoma also explained the importance of the IMPROVE monitoring network for tracking visibility trends at its Class I area and identified that it did not anticipate any changes to its reliance on the network for visibility assessments. EPA proposes to find that Oklahoma has adequately addressed the applicable provisions of 40 CFR 51.308(g) regarding monitoring strategy because the State reviewed its visibility monitoring strategy and determined that no further modifications to the strategy are necessary.

B. Determination of Adequacy of the Existing Implementation Plan

In its progress report SIP, Oklahoma submits a negative declaration to EPA regarding the need for additional actions or emissions reductions in Oklahoma beyond those already in place and those to be implemented by 2018 according to Oklahoma's regional haze plan. Oklahoma determined that the current version of its regional haze plan requires no further substantive revision at this time to achieve the 2018 RPGs for Class I areas affected by the State's sources. The basis for the State's declaration is the findings from the progress report SIP which conclude that the control measures in Oklahoma's regional haze plan are on track to meet their implementation schedules and the reduction of SO_2, NO_X and PM emissions from subject to BART EGUs in Oklahoma continues to be the appropriate strategy for improvement of visibility in Oklahoma's WMWA Class I area. Additional improvements in visibility are expected to continue, as at the time of submission for the progress report, the major emitting facilities in Oklahoma had not yet installed their respective BART controls.

Review of more recent emissions and visibility data shows that EGU SO_2 and NO_X emissions dropped from 2002 to 2017 by 64,802 and 64,237 tons, respectively; and the actual change in visibility observed/reported via its IMPROVE monitor through 2016 for the WMWA Class I area is better[64] than what the State predicted for 2016 and is currently exceeding the uniform rate of progress.[65] EPA proposes to conclude that Oklahoma has adequately addressed 40 CFR 51.308(h) because the visibility trends at the WMWA Class I area and at Class I areas outside the State potentially impacted by sources within Oklahoma and the emissions trends of the largest emitters of visibility-impairing pollutants in the State indicate that the relevant RPGs will be met; and support the State's determination of the adequacy of its SIP.

C. Consultation With Federal Land Managers

In accordance with 40 CFR 51.308(i), the state must provide the FLMs with an opportunity for consultation, at least 60 days prior to holding any public hearings on an implementation plan (or plan revision). The state must also include a description of how it addressed any comments provided by the FLMs. ODEQ shared its draft progress report with the FLMs on April 11, 2016; and notified them of the associated public review comment period on August 2, 2016 and of the opportunity to request a public hearing (for September 6, 2016). The FLM comments and Oklahoma's responses are presented in Appendix II of the progress report.

The EPA proposes to find that Oklahoma has addressed the requirements in 40 CFR 51.308(i). Oklahoma provided a 60-day period for the FLMs to comment on the progress report, which was at least 60 days before seeking public comments, and provides a summary of these comments and responses to these comments in the progress report.

III. Proposed Action

EPA is proposing to approve the State of Oklahoma regional haze five-year progress report SIP revision (submitted September 28, 2016) as meeting the applicable regional haze requirements under the CAA and set forth in 40 CFR 51.308(g), (h) and (i). Because the SIP and FIP will ensure the control of SO_2 and NO_X emissions reductions relied upon by Oklahoma and other states in setting their reasonable progress goals, EPA is proposing to approve Oklahoma's finding that there is no need for revision of the existing implementation plan to achieve the reasonable progress goals for the Class I areas in Oklahoma and in nearby states impacted by Oklahoma sources.

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 Act and applicable federal regulations. *See* 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this proposed action proposes to approve a State's determination that their current regional haze plan is meeting federal requirements and does not impose additional requirements beyond those imposed by state law. 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 expected to be an Executive Order 13771 regulatory action because this action is not significant 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);

[63] Wichita Mountains Wildlife Refuge personnel operate and maintain the IMPROVE particulate sampler and are responsible for disseminating and submitting the collected data (See Oklahoma's initial regional haze SIP revision, pg. 8.).

[64] AQRV Summary data for the WIMO 1 monitor at WMWA indicates that the 2017 observed visibility was 17.23 dv—4.1 dv lower than the FIP-revised 2018 RPG for the haziest of days.

[65] See the Visibility Impairment Projections graph on page 29 of the progress report SIP.

• Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

• Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and

• Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the proposed rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Best Available Retrofit Technology, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Regional haze, Sulfur dioxide, Visibility, Volatile organic compounds.

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

Dated: March 21, 2019.

Anne Idsal,

Regional Administrator, Region 6.

[FR Doc. 2019–05860 Filed 3–27–19; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1 and 30

[GN Docket No. 14–177, AU Docket No. 19–59; DA 19–196]

Notice of Initial 39 GHz Reconfiguration Procedures

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; proposed auction procedures.

SUMMARY: In this document, the Wireless Telecommunications Bureau (Bureau), in cooperation with the Office of Economics and Analytics (OEA), on behalf of the Federal Communications Commission (Commission or FCC), seeks comment on the next steps toward implementing the procedures to reconfigure the 39 GHz band in preparation for the incentive auction that will offer new flexible use licenses in the Upper 37 GHz, 39 GHz, and 47 GHz bands. In this document, the Bureau also temporarily freezes processing of future applications for transfers and assignments of 39 GHz licenses in order to facilitate the reconfiguration process and acts pursuant to section 316 to modify incumbents' 39 GHz licenses in accordance with the Commission's proposed order of modification.

DATES: Comments are due on or before April 15, 2019; reply comments are due on or before April 26, 2019.

ADDRESSES: You may submit comments, identified by AU Docket No. 19–59, by any of the following methods:

• *Electronic Filers:* Comments may be filed electronically using the internet by accessing the Commission's Electronic Comment Filing System (ECFS) *https://www.fcc.gov/ecfs/* or the Federal eRulemaking Portal: *https://www.regulations.gov.* Filers should follow the instructions provided on the Commission's website for submitting comments and transmit one electronic copy of the filing to AU Docket 19–59. For ECFS filers, in completing the transmittal screen, filers should include their full name, U.S. Postal Service mailing address, and the applicable docket number.

• To get filing instructions, filers should send an email to *ecfs@fcc.gov,* and include the following words in the body of the message, ''get form your email address''. A sample form and instructions will be sent in response. The Bureau also requests all comments and reply comments to be submitted electronically to the following email address: *auction103@fcc.gov.*

• *Paper Filers:* Parties who choose to file by paper must file an original and one copy of each filing. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

• All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St. SW, Room TW–A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building.

• Commercial Overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Dr., Annapolis Junction, Annapolis, MD 20701.

• U.S. Postal Service first-class, Express, and Priority must be addressed to 445 12th St. SW, Washington, DC 20554.

• *People with Disabilities:* Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by email: *FCC504@fcc.gov,* phone: 202–418–0530 or TTY: 202–418–0432.

For detailed instructions for submitting comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: For Upper Microwave Flexible Use Service (UMFUS) questions, Simon Banyai of the Wireless Telecommunications Bureau, Broadband Division, at (202) 418–2487 or *Simon.Banyai@fcc.gov;* for auction legal questions: Erik Salovaara of the Office of Economics and Analytics, Auctions Division, at (202) 418–0660 or *Erik.Salovaara@fcc.gov.* For information regarding the PRA information collection requirements contained in this PRA, contact Cathy Williams, Office of Managing Director, at (202) 418–2918 or *Cathy.Williams@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's document (*Public Notice*), GN Docket No. 14–177, AU Docket No. 19–59, DA 19–196, adopted on March 20, 2019 and released on March 20, 2019. The complete text of this document is available for public inspection and copying from 8 a.m. to 4:30 p.m. Eastern Time (ET) Monday through Thursday or from 8 a.m. to 11:30 a.m. ET on Fridays in the FCC Reference Information Center, 445 12th Street SW, Room CY–A257, Washington, DC 20554. The complete text is available on the Commission's website at *http://wireless.fcc.gov,* or by using the search function on the ECFS web page at *http://www.fcc.gov/cgb/ecfs/.* Alternative formats are available to persons with disabilities by sending an email to *fcc504@fcc.gov* or by calling the Consumer & Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (tty).

Ex Parte Rules—Permit-But-Disclose

Pursuant to § 1.1200(a) of the Commission's rules, this document shall be treated as a ''permit-but-disclose'' proceeding in accordance with the

Commission's *ex parte* rules. Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with § 1.1206(b). In proceedings governed by § 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (*e.g.,* .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

Supplemental Initial Regulatory Flexibility Analysis

As required by the Regulatory Flexibility Act of 1980, as amended (RFA), the Commission has prepared a Supplemental Initial Regulatory Flexibility Analysis (Supplemental IRFA) of the possible significant economic impact on small entities of the policies and rules addressed in this *Public Notice* to supplement the Commission's Initial and Final Regulatory Flexibility Analyses completed in the *Fourth Report and Order, Spectrum Frontiers Orders,* and other Commission orders pursuant to which Auction 103 will be conducted. Written public comments are requested on the Supplemental IRFA. Comments must be identified as responses to the Supplemental IRFA and must be filed by the same deadline for filing comments as specified in the *Public Notice.* The Commission will send a copy of the *Public Notice,* including this Supplemental IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA). In addition, the *Public Notice* and Supplemental IRFA (or summaries thereof) will be published in the **Federal Register**.

Paperwork Reduction Act (PRA)

This *Public Notice* contains new information collection requirements that are subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. The Commission is currently seeking PRA approval for the new information collection requirements associated with the Incumbent 39 GHz Licensee Short Form Application (FCC Form 175–A). The Office of Management and Budget, the general public, and other Federal agencies are invited to comment on the new information collection requirements contained in this *Public Notice.* In addition, the Commission notes that pursuant to the Small Business Paperwork Relief Act of 2002, the Commission seeks specific comment on how the Commission might further reduce the information collection burden for small business concerns with fewer than 25 employees.

Synopsis

I. Introduction

1. In this *Public Notice,* as directed by the Commission, the Wireless Telecommunications Bureau (Bureau), in cooperation with the Office of Economics and Analytics (OEA), takes the next steps toward implementing the procedures to reconfigure the 39 GHz band in preparation for the incentive auction that will offer new flexible use licenses in the Upper 37 GHz (37.6–38.6 GHz), 39 GHz (38.6–40 GHz), and 47 GHz (47.2–48.2 GHz) bands. The Bureau designates this upcoming incentive auction as Auction 103. As the Commission stated in the *Spectrum Frontiers Fourth R&O,* the incentive auction process—which includes the opportunity for 39 GHz incumbents not choosing to participate in the auction to receive modified licenses—resolves the persistent difficulties presented by the need for existing 39 GHz licenses to be transitioned efficiently to the new band plan and in some cases, new service areas. This process substantially furthers the public interest in making available spectrum for the provision of next-generation services, while preserving incumbents' spectrum usage rights and modifying their licenses (if desired) in a manner that will also leave these incumbents better able to provide fifth-generation (5G) wireless, Internet of Things, and other advanced services in the 39 GHz band.

2. The key decision for each 39 GHz incumbent will be whether to: (a) Relinquish 39 GHz licenses in exchange for an incentive payment, with the opportunity to bid on new licenses in the incentive auction, if it chooses to do so; or (b) elect to receive modified licenses and not apply to participate in the auction for new licenses. In the reconfiguration process the Bureau describes below, the Bureau refers to this decision as an Initial Commitment. As the Commission determined in the *Spectrum Frontiers Fourth R&O,* incumbents have three options for their Initial Commitment. An incumbent can choose to: (1) Have its licenses modified based on the Commission's proposed reconfiguration of its license holdings; (2) have its licenses modified based on an acceptable alternative reconfiguration that the incumbent proposes, provided that it satisfies certain specified conditions; or (3) commit to relinquish its licenses in exchange for an incentive payment and the ability to bid for new licenses. The Initial Commitment results will determine the inventory of 39 GHz spectrum blocks that will be available to be assigned in the clock phase of Auction 103. Regardless of which option an incumbent chooses, once it has made its Initial Commitment it will not need to take any further steps before the conclusion of the auction, unless it wants to bid on new licenses in the auction.

3. In this *Public Notice,* the Bureau (1) determines to freeze temporarily processing of future applications for transfers and assignments of 39 GHz licenses in order to facilitate this reconfiguration process, as suggested by the Commission; (2) acts pursuant to section 316 to modify incumbents' 39 GHz licenses in accordance with the Commission's proposed order of modification, in light of the absence of any protests thereto; and (3) seeks comment on a proposed path toward reconfiguration of this band in preparation for Auction 103.

II. Background

4. In the *Spectrum Frontiers Fourth R&O,* the Commission took significant steps to make spectrum available for 5G wireless, Internet of Things, and other advanced services in the Upper 37 GHz, 39 GHz, and 47 GHz bands. Over the course of the Spectrum Frontiers proceeding, the Commission has

adopted Upper Microwave Flexible Use Service (UMFUS) rules to make available millimeter wave spectrum for such next-generation services. When combined, the contiguous Upper 37 GHz and the 39 GHz bands offer the largest amount of contiguous spectrum in the millimeter wave bands for flexible-use wireless services—a total of 2,400 megahertz. The 47 GHz band will provide an additional 1,000 megahertz of millimeter wave spectrum for such services.

5. The Commission's decisions in the *Spectrum Frontiers Fourth R&O* resolve the persistent difficulties presented by existing 39 GHz licenses issued for past uses under prior rules. These licenses create barriers to next-generation services by fragmenting frequencies and in some cases, geographic license areas, across the 39 GHz band, because existing 39 GHz licenses include a mix of 50 megahertz unpaired channel blocks, Rectangular Service Areas (RSA) licenses that do not conform to PEA boundaries, and other licenses not authorized to provide service throughout the full geographic boundaries of the PEAs due to pre-existing RSA licenses. The band plan for UMFUS licenses in these spectrum bands is 100 megahertz blocks licensed by Partial Economic Area (PEA).

6. The Commission adopted an incentive auction for the Upper 37 GHz, 39 GHz, and 47 GHz bands in part to make it possible for both incumbent 39 GHz licensees and new licensees throughout these bands to provide such valuable next-generation services. In preparation for assigning new licenses in these bands by auction, the Commission decided that all existing 39 GHz licenses are subject to modification. These modifications to 39 GHz licenses will enhance opportunities for these licensees to provide valuable next generation services. The process the Commission mandated will remove barriers to the provision of 5G services by giving incumbents the choice of accepting modified licenses or, if an incumbent licensee volunteers to relinquish related spectrum usage rights in exchange for an incentive payment, cancelling these licenses. In the incentive auction, each incumbent 39 GHz licensee voluntarily may commit to relinquish all spectrum usage rights provided by existing licenses in exchange for a share of the proceeds from the auction of new licenses. Those making such a commitment will be eligible to apply to bid for new licenses. As in prior t Commission auctions, the Commission will develop and detail all the procedures necessary to conduct the auction in a pre-auction process framed by an Auction Comment Public Notice and Auction Procedures Public Notice.

III. Preparing the 39 GHz Band for Auction 103

7. The Bureau must implement the steps the Commission described in the *Spectrum Frontiers Fourth R&O* to reconfigure existing 39 GHz licenses to better match the new 39 GHz band plan and service rules so that incumbents can make binding Initial Commitments through the Commission's Initial Commitment System. This *Public Notice* explains how the Bureau will take these steps. The *Public Notice* includes the following appendices, which provide even more detail, including the mathematical calculations and assumptions made during this reconfiguration process: Appendix A: Reconfiguration Technical Guide; Appendix B: Initial Aggregated Incumbent Holdings; Appendix C: Imputing Auction 101 Prices for Weights; and Appendix D: Initial Commitment Technical Guide. First, the Bureau must aggregate an incumbent's 39 GHz holdings to determine how many licenses per Partial Economic Area (PEA) the incumbent would be entitled to under the new band plan. Pursuant to the Commission's directive in the *Spectrum Frontiers Fourth R&O,* the Bureau also will consolidate the holdings of any licensees that are considered ''commonly controlled entities.'' Pursuant to the Commission's further direction, and to ensure the data remain consistent, the Bureau freezes most transactions relating to 39 GHz licenses with the adoption of this *Public Notice.*

8. Because incumbents' holdings may not match the parameters for the new band plan and service rules, the Commission anticipates that, in many markets, incumbents may have ''partial PEA'' holdings—*i.e.,* spectrum rights that cover less than the entire population of the PEA. In the *Spectrum Frontiers Fourth R&O,* the Commission determined that any incumbent choosing to accept modified licenses could receive at most one license that covers a partial PEA. To implement this objective, the Commission decided that PEA weights should be applied to allow spectrum usage rights to be combined across markets, to produce ''full'' PEA holdings (license rights equal to covering the entire population of a PEA). This will allow the use of mathematical techniques that result in a proposed license reconfiguration for each incumbent, which will be provided to incumbents in advance of the Initial Commitment process, so that they can make informed decisions as to whether to accept the proposed reconfiguration, provide an alternative reconfiguration, or relinquish existing 39 GHz licenses.

9. The Commission directed the Bureau to take the steps necessary to implement the Commission's decisions regarding existing 39 GHz licenses. This *Public Notice* describes the proposed procedures, processes, and methodologies the Bureau plans to implement to reconfigure the 39 GHz band.

10. From the perspective of 39 GHz incumbents, the major steps of the 39 GHz band reconfiguration process will be as follows:

- *Verifying 39 GHz Aggregated Holdings Data.* In Appendix B: Initial Aggregated Incumbent Holdings, the Bureau provides as a summary of each 39 GHz incumbent's aggregated holdings by PEA. This summary indicates the amount of spectrum usage rights each incumbent holds per PEA, as a product of licensed bandwidth and the population of the licensed area (MHz-pops), based on the records in the Universal Licensing System (ULS). In addition, any 39 GHz licensees with common control have their aggregated holdings consolidated, as shown in Appendix B. Incumbents will have an opportunity to update the license information provided in ULS on which these holdings are based.
- *File Excepted Transfers and Assignments (if applicable).* In this *Public Notice,* the Bureau freezes transfers and assignments of 39 GHz licenses, with an exception for commonly controlled entities. If commonly controlled entities wish to transfer/assign all their 39 GHz licenses to one of the commonly controlled entities, they may file an application by the deadline specified in this *Public Notice.*
- *Review Updated 39 GHz Reconfiguration Procedures and Updated Aggregated Holdings Data.* After considering the record produced in response to this *Public Notice,* the Bureau will adopt final 39 GHz band reconfiguration procedures in a future public notice (''Updated 39 GHz Reconfiguration Procedures Public Notice''). Along with that Public Notice, the Bureau will provide each incumbent's updated 39 GHz aggregated (and consolidated, if applicable) holdings data per PEA (''Updated Aggregated Holdings Data''). An ''incumbent'' for these purposes is either a single 39 GHz licensee or a group of commonly controlled entities that hold 39 GHz licenses.
- *Reconfigured 39 GHz Incumbent Holdings Public Notice.* After the updated 39 GHz band reconfiguration

procedures are adopted, the adopted procedures and methodologies will be applied to reconfigure each incumbent's holdings to match the new band plan and service areas. The Reconfigured 39 GHz Incumbent Holdings Public Notice will show the license holdings the incumbent would receive if in its Initial Commitment it chose to receive modified licenses based on the Commission's proposed reconfiguration (Option 1 under the Initial Commitment Process). The Public Notice will inform each incumbent of the PEAs in which it would receive modified 100 megahertz licenses and the number of such licenses if it chooses to accept the modified licenses based on the Commission's proposed reconfiguration. The final frequencies of the licenses will be determined later; any licensee receiving more than one modified license in a PEA will receive licenses for contiguous frequencies within the PEA.

• *File FCC Form 175–A.* To be able to access to the Commission's Initial Commitment System, each incumbent must be represented through an Incumbent 39 GHz Licensee Short-Form Application (FCC Form 175–A). The form will provide contact information, list represented licensees, identify authorized Initial Commitment Representatives, and include required certifications. *All incumbents should be listed on a filed FCC Form 175–A regardless of whether they intend to bid for new licenses in the incentive auction. In the event an incumbent is not listed on a submitted FCC Form 175–A, that incumbent will be considered to have committed to accepting modified licenses based on reconfigured holdings proposed by the Commission and to have foregone any opportunity to relinquish any holdings for an incentive payment and to participate in an auction of new licenses in Upper 37 GHz, 39 GHz, and 47 GHz.* Bureau staff will be conducting outreach to all incumbents using their contact information in ULS to ensure that they are informed of their options.

• *Initial Commitment Process.* Each incumbent may commit to: (1)Accepting modified licenses based on a reconfiguration of its holdings proposed by the Commission in the Reconfigured 39 GHz Holdings Public Notice; or (2) accepting modified licenses based on its alternative reconfiguration; or (3) relinquishing spectrum usage rights under all its 39 GHz licenses in exchange for an incentive payment. An ''alternative reconfiguration'' for these purposes is a reconfiguration that the incumbent submits through the Initial Commitment System; to be acceptable, the incumbent's proposal must satisfy the same requirements as the Commission's proposed reconfiguration, except that it need not minimize the weighted MHz-pops remaining as white space in the one PEA in which the incumbent is left with the equivalent of a partial PEA block. The Initial Commitment System will provide real-time feedback to incumbents on the acceptability of proposed alternative reconfigurations. The deadline for making an Initial Commitment will be no sooner than 60 days after the release of the Reconfigured 39 GHz Incumbent Holdings Public Notice. *Any incumbent that fails to make a selection by the deadline will be deemed to have selected Option 1: the Commission's proposed reconfiguration for modified licenses.*

• *Round Zero.* An incumbent that commits to relinquishing all its existing spectrum usage rights (Option 3) will have a limited opportunity during the Initial Commitment submission window to redistribute its MHz-pops that are equivalent to a partial PEA license based on its updated aggregated holdings in any PEA, based on their relative weights, as part of the Round Zero process in the Initial Commitment System. Incentive payments to those 39 GHz incumbents committing to Option 3 will be based on the redistributed holdings at the close of Round Zero.

• *Existing Licenses Pending the Auction.* Regardless of each incumbent's binding Initial Commitment, each incumbent licensee will retain its existing 39 GHz licenses until after the close of the auction and the announcement of winning bidders for new licenses. The announcement of winning bidders for the auction must occur before the Commission can assign frequencies to modified licenses, issue new licenses, or share auction proceeds as incentive payments with incumbents for cancelled 39 GHz licenses.

• *Auction of New Licenses.* Following the Initial Commitment process, potential bidders for new licenses will take typical pre-auction actions necessary to become qualified to bid. Only incumbents that elect Option 3 to relinquish licenses are permitted to bid on new licenses in Auction 103, if they choose to do so, but they also may elect not to bid and simply receive incentive payments for their relinquished licenses. As determined in the *Spectrum Frontiers Fourth R&O,* incumbents that elect to receive modified licenses will be assigned frequencies based on the results of the auction assignment phase but cannot bid for particular frequencies in the assignment phase.

• *Post-Incentive Auction Transition and Incentive Payments.* Following the announcement of winning bidders in the incentive auction, the Commission, based on the incumbents' Initial Commitments, will issue modified licenses and cancel relinquished licenses. Incumbents will be able to seek Special Temporary Authority as needed to transition from existing licenses to modified licenses or to new licenses that will be issued subsequently. Any new licenses that an incumbent wins in the auction will be issued pursuant to the Commission's standard process of receiving winning bids, reviewing license applications, and then granting the new licenses. The Commission will be ready to make incentive payments owed following the grant of new licenses associated with winning bids.

IV. Final Actions

A. Freeze on Transfers and Assignments for 39 GHz Licenses

11. In the *Spectrum Frontiers Fourth R&O,* the Commission recognized that it may be appropriate to freeze transfers and assignments of 39 GHz licenses, and it directed the Bureau to address whether or when it is necessary to freeze transfers and assignments of 39 GHz licenses prior to calculations of aggregate holdings. The Bureau concludes that, with the release of this *Public Notice,* the Bureau will implement a temporary freeze on the acceptance and processing of applications relating to any future transfers or assignments of 39 GHz licenses, with one exception. Any applications received after the release of this *Public Notice* that do not fall under the exception or applications that fall under the exception that are received after the deadline provided in this *Public Notice* will be returned as unacceptable for filing. This freeze will end after new licenses have been granted to winning bidders and modified licenses have been issued to non-auction participants.

12. A freeze on transfers and assignments is necessary to ensure that the Commission's reconfiguration of existing licenses is not unwound by any transfers and assignments that might materially revise the holdings that are the subject of the reconfiguration. A significant aspect of the reconfiguration process is the consideration of an incumbent's spectrum usage rights on an aggregated basis (''aggregated holdings''). If an incumbent could transfer or assign some subset of its 39 GHz licenses, the Commission's reconfiguration of the incumbent's aggregated holdings would no longer be consistent with the incumbent's actual holdings. Furthermore, the effectiveness

of an incumbent's certifications and other representations with respect to its Initial Commitment might be brought into question following a transfer or assignment of some or all of its 39 GHz licenses.

13. This freeze nevertheless is subject to one exception. This freeze will not affect transfers or assignments to or among commonly controlled entities, and applications that fall into this category will be accepted until *April 15, 2019.* In the *Spectrum Frontiers Fourth R&O,* the Commission determined that licenses held by commonly controlled entities would be treated as held by one entity for purposes of reconfiguring 39 GHz holdings (which the Bureau refers to as ''consolidated holdings''). Specifically, the Commission noted that ''[f]or this purpose, we will use the definition of 'controlling interest' as an entity with *de jure* or *de facto* control that the Commission uses with respect to auction applications, specifically the rule prohibiting an individual or entity from having a controlling interest in more than one application to participate in the auction.'' Further, the Commission determined that commonly controlled entities will be aggregated in the reconfiguration process. Because these transactions would transfer or assign to other entities spectrum rights that already are part of consolidated holdings, the transactions would not result in any material change for purposes of this process. Any 39 GHz licensees that are commonly controlled entities and intend to consolidate their licenses so that one entity is the licensee for the ''consolidated holdings'' should file these transfer or assignment applications as soon as possible, and no later than *April 15, 2019.*

B. Final Order of Modification

14. In the *Spectrum Frontiers Fourth R&O,* the Commission affirmed its conclusion that it had the authority under the Communications Act to modify existing licenses in a manner that would allow for a more efficient auction and to conduct an incentive auction for these bands. Specifically, it determined that, in order to resolve the difficulties presented by the existing encumbered and non-contiguous licenses and to clear the way for assignment of a significant number of new licenses for whole blocks with contiguous frequencies within PEAs, it was necessary to employ an incentive auction, while offering incumbents that chose not to participate in the auction an alternative of modified 39 GHz licenses.

15. The Commission explained that, because some existing licenses may cover geographic areas that do not match the PEA service areas established for the 39 GHz band, an incumbent's modified licenses may need to be reconfigured to create whole spectrum blocks providing 100 megahertz over a full PEA in some of those areas. Where such changes are unavoidable, the reconfigured licenses would maintain the overall value of spectrum usage rights by quantifying those rights by weighted MHz-pops, as measured pursuant to the procedures established by the *Spectrum Frontiers Fourth R&O,* and the incumbent would retain at most one modified license for a partial PEA. Doing so would allow these incumbents to better provide next-generation services and help create generic blocks for new licenses that will better enable new licensees to offer next generation services and that can be assigned efficiently using an auction.

16. Following the *Spectrum Frontiers Fourth R&O,* no petitions for reconsideration or protests of the order of modification were timely filed. Based on the record in this matter and the Commission's decision in the *Spectrum Frontiers Fourth R&O,* the Bureau concludes it is in the public interest to modify the spectrum usage rights of existing 39 GHz licenses as described therein. The *Public Notice* is being sent by certified mail, return receipt requested, to each current 39 GHz licensee at the mailing address on file in ULS. Ultimately, any current 39 GHz licensee that chooses to accept modified licenses will have its spectrum usage rights modified no earlier than after winning bidders are announced in Auction 103. As part of the Auction 103 Closing Public Notice that announces winning bidders, incumbent 39 GHz licensees choosing to accept modified licenses will be notified of the specific frequencies of their modified licenses.

V. Quantifying Existing 39 GHz Licenses

A. Current Universal Licensing System Data

17. The Bureau lists 39 GHz MHz-pops holdings based on the information available in the public ULS in Appendix B: Initial Aggregated Incumbent Holdings. The holdings have been determined by the population covered by a license within a PEA, aggregated by licensee, and consolidated for commonly controlled entities, if applicable. The Bureau uses ''incumbent'' to refer both to a single 39 GHz licensee and to a group of commonly controlled entities that hold 39 GHz licenses. The Bureau explains in this section the process by which each incumbent's existing spectrum usage rights has been determined. These holdings will be used with respect to any option chosen as an Initial Commitment for an incumbent.

18. Incumbent licensees are responsible for ensuring the accuracy of the ULS data underlying these calculations of the holdings listed in Appendix B: Initial Aggregated Incumbent Holdings and for identifying any apparent discrepancies in the calculations. If an incumbent needs to update its information by filing an FCC Form (such as updating its ownership information or notifying the Commission of transfers of control or assignments of these licenses that are not reflected in the current data), it should file the appropriate form(s) to make any necessary corrections as soon as possible, but no later than *April 15, 2019.* This includes any incumbent 39 GHz licensees listed as individual licensees in Appendix B that are commonly controlled entities. The Bureau will evaluate any claims of commonly controlled entities prior to announcing the Updated Aggregated Holdings Data to ensure that those incumbents' holdings are consolidated where required. If any incumbents that are commonly controlled under a *de facto* control standard do not seek consolidation and we later determine that there is common control, they will be in violation of 47 CFR 1.2105(a)(3) if they both elect to participate in the auction for new licenses.

19. If there are any administrative corrections needed, incumbents should make those administrative corrections via ULS no later than *April 15, 2019.* Incumbents should contact the Commission if they discover any discrepancies in the data reflected in the attachment that cannot otherwise be addressed either by making administrative updates in ULS or by filing an FCC Form, and should do so as soon as possible.

20. The Bureau will release the Updated Aggregated Holdings Data (identifying an updated account of each incumbent's existing 39 GHz spectrum usage rights holdings) in the Updated 39 GHz Reconfiguration Procedures Public Notice after incumbents have had the opportunity to make any corrections.

B. Determining Current Licensees' Aggregate Holdings by PEA

21. As determined in the *Spectrum Frontiers Fourth R&O,* 2010 Census data will be used to determine the population covered by each existing 39 GHz license. The two-by-two kilometer grid cell methodology employed to determine population in particular areas

in the broadcast television spectrum incentive auction will be used to calculate the population for licenses for RSAs and for licenses covering a full or partial PEA.

22. To calculate the population using this grid cell methodology, a grid composed of two-by-two kilometer cells is superimposed on every PEA, with the population contained in each cell determined by reference to the 2010 Census and the highest concentration of the population represented by an internal point located in each cell. For each contiguous part of the country (*i.e.,* the lower 48 states and the District of Columbia; Alaska; Hawaii; Puerto Rico; U.S. Virgin Islands; American Samoa; and Guam and the Commonwealth of the Northern Mariana Islands) a two-by-two kilometer grid will be created using an equal-area map projection, similar to the methodology used in the Mobility Fund II Challenge Process except using two square kilometer cells rather than one square kilometer cells. *See* Appendix A for more information on how the grid is created; *see* Appendix B for the total number of pops in each PEA resulting from using this methodology. The total population contained in a PEA is then calculated by summing the population of each grid cell (or portion thereof) encompassed by a PEA's geographic area.

23. When calculating an incumbent's current holdings, the Commission will aggregate each incumbent's holdings into 100 megahertz blocks by PEA. Using the grid cell methodology, for licenses that cover the full geography of the PEA without encumbrances (''full PEA blocks''), this calculated total population of the PEA is applied to the relevant block(s). In the *Spectrum Frontiers 4th NPRM,* the Commission explained that there are two types of encumbered licenses: (1) RSA licenses that do not conform to PEA boundaries; and (2) PEA licenses that are not authorized to provide service in the entire PEA, *i.e.,* licenses that overlap geographically with pre-existing RSA licenses whose frequency assignment they must protect. In the *Spectrum Frontiers Fourth R&O,* the Commission defined a ''partial PEA block'' as a 100 megahertz channel block that covers a smaller population than the entire population in that PEA, or to an incumbent's voucher in a PEA for purposes of the auction that is less than the weighted MHz-[p]ops for the full PEA.'' These partial blocks could result from circumstances such as Rectangular Service Area (RSA) licenses that do not match the PEA boundaries, or partial PEA licenses, in which the licensee cannot operate throughout the entire geography of the PEA license due to a pre-existing RSA license that operates on the same channel. For encumbered licenses that cover partial PEAs, the MHz-pops covered by an incumbent's license is calculated using the grid cell methodology applied above to the portion of the PEA the original license covers geographically. The Commission system will aggregate an incumbent's MHz-pops holdings per PEA license area. Pursuant to the Commission's decision in the *Spectrum Frontiers Fourth R&O,* any licenses that cover at least 99% of the MHz-pops in a PEA will be considered as having the equivalent of an unencumbered whole block prior to the reconfiguration process. Appendix B provides holdings data for each incumbent based on the current license data in ULS.

C. Consolidation of Aggregated Holdings for Commonly Controlled Entities

24. In the *Spectrum Frontiers Fourth R&O,* the Commission decided that, as part of this aggregation process, it would treat separate licenses held by entities that control or are controlled by each other and/or have controlling ownership interests in common (''commonly controlled entities'') as being held by a single entity. Ownership data on file in ULS indicate two groups of commonly controlled entities that are listed on a consolidated basis as a single incumbent in Appendix B. In evaluating the existing ownership structures reflected in existing 39 GHz licensees' filings with the Commission, the following licensees are under common control: Cellco Partnership and Straight Path Spectrum, LLC (controlled by parent company Verizon Communications, Inc.); and Alascom, Inc., FiberTower Spectrum Holdings LLC, and Teleport Communications, LLC (controlled by parent company AT&T Inc.). The Bureau has listed all holdings for these entities under a name representing the consolidated incumbent.

25. Existing 39 GHz licensees that are commonly controlled entities may choose to consolidate their existing licenses with a single license holder prior to the Initial Commitment process. Any such 39 GHz licensees that are commonly controlled entities and intend to consolidate their licenses under one entity should file these transfer or assignment applications as soon as possible, and no later than *April 15, 2019.*

D. Methodology for Setting Relative Weights for Spectrum Holdings by PEA

26. The Commission directed that ''the MHz-[p]ops in each PEA will be weighted using an index calculated using the relative prices of spectrum licenses in each PEA in other auctions'' to make it possible to compare MHz-pops across PEAs. Specifically, the Commission ''direct[ed] the Wireless Telecommunications Bureau to set the weights considering the relative PEA price data prepared for and resulting from the broadcast television spectrum incentive auction, while also taking into account any additional Commission data regarding prices for millimeter wave spectrum licenses to the extent practicable.''

27. The Bureau proposes to create an index using the weighted average of relative price indices for Auctions 102 (24 GHz), 1002 (600 MHz), and 97 (AWS–3). For Auction 1002, the broadcast incentive auction, the Commission used an index that considered relative prices from Auction 66 (AWS–1), Auction 73 (700 MHz), and Auction 97 (AWS–3). The Bureau proposes to include prices for PEA licenses from Auction 1002 (600 MHz) in the index since those prices are now available.

28. Auction 102 will be the first Commission auction with a nationwide inventory of millimeter wave spectrum to be held prior to Auction 103, which leads the Bureau to conclude that it will be helpful to incorporate Auction 102 data into the index. Although Auction 102 may not have concluded by the time the index of relative PEA weights is needed for the reconfiguration of existing 39 GHz license rights, the Bureau proposes to use prices as available in Auction 102 provided that the bidding is sufficiently far along as to provide a reasonable indicator of relative prices across PEAs. Specifically, the Bureau proposes to use Auction 102 prices as of the last feasible point to do so prior to release of the Updated 39 GHz Reconfiguration Procedures Public Notice. To ensure that bidding in Auction 102 is sufficiently advanced by the time the index is needed, the Bureau proposes to require that a measure of overall activity in the auction is low. That is, the Bureau proposes that the percentage of bidding units for which demand exceeds supply relative to the total number of bidding units of all of the licenses in the auction is no greater than 20%.

29. Given price per MHz-pops data for Auctions 1002 and 97, and assuming for this purpose the availability of Auction 102 data, the Bureau proposes to construct an index by first (i) converting all data to a PEA basis, (ii) computing an average price for each PEA in each auction, (iii) calculating a relative price index value for each PEA in each auction, and (iv) taking a weighted

average of index values, weighting the Auction 102 data more heavily to reflect that the auction is more recent and that the millimeter wave spectrum in Auction 102 is more comparable to the frequency bands available in Auction 103. This will create the index for weighting the MHz-pops in each PEA. Finally, the Bureau will (v) calculate the weighted MHz-pops for a block in a PEA by multiplying the unweighted MHz-pops times the index value for the PEA and normalizing the results if necessary.

30. The Bureau's proposed approach would not incorporate price data from Auction 101, the only other auction of UMFUS licenses to date, into the index. The inventory for Auction 101 consists of a partial set of mostly smaller, less densely populated markets licensed on a county basis, in contrast to the other auctions the Bureau proposes to use that include licenses for larger geographic areas available on a nationwide basis. Further, the Bureau proposes not to use data from Auctions 66 and 73 even though they were included in the index for Auction 1002, using instead prices from more recent auctions.

31. The Bureau seeks comment on this proposed approach. In particular, the Bureau seeks comment on the specific auctions for which it will include data in the index, and whether we should use all available data from each auction. The Bureau further asks for input on the relative weights it will use in the weighted average in step (iv) above. Should the Bureau weight Auction 102 relatively more heavily than the lower bands, and if so, what weights are preferred?

32. As an alternative, the Bureau could use a statistical regression approach to impute prices for those PEAs for which no inventory was available in Auction 101 and, consequently, for which no results are available. Under this alternative, the Bureau would use Auction 101 prices in the available markets as the dependent variable in a regression model that includes as explanatory variables prices from the two lower band auctions that would be included in the Bureau's primary proposal as well as other characteristics (*e.g.,* income and population). This approach, which is described in Appendix C, could enable us to make use of the existing price information available from Auction 101 without creating a bias that using only data from smaller markets could introduce.

33. Under this alternative, the Bureau would construct the index in the *Public Notice* but using an average of the Auction 101 index values and Auction 102 index values, in the weighted average calculation (iv) above. This alternative methodology would not consider the data from earlier auctions of lower band spectrum licenses other than in the regression for imputing Auction 101 prices. The Bureau seeks comment on whether it should weight Auction 102 relatively more heavily than Auction 101. The Bureau seeks comment on all elements of its primary proposal, the alternatives mentioned, and any other approaches to determining an index of PEA weights.

E. Combined Incumbent Holdings

34. The Commission decided in the *Spectrum Frontiers Fourth R&O* that each incumbent's 39 GHz license holdings would be treated on a combined basis, whether aggregated by PEA for an individual licensee or aggregated and consolidated by PEA for commonly controlled entities that are treated as a single incumbent. Subject to specified constraints, these combined holdings could be redistributed across PEAs, while maintaining the total weighted MHz-pops as part of the reconfiguration process that might lead to modified licenses. Furthermore, the Commission decided that these combined holdings could be redistributed across PEAs in Round Zero before the start of bidding in Auction 103, again subject to specified constraints, to determine the incentive payment amounts based on holdings in each PEA.

35. Once the combined holdings are redistributed by weighted MHz-pops across PEAs, incumbent holdings in a particular PEA may no longer be clearly derived from any particular existing license or, in the case of consolidated licensees, from any particular existing licensee. Consequently, the Bureau will issue modified licenses based on reconfigurations of combined holdings to a single incumbent licensee, even in the case of consolidated holdings held by a group of incumbents that are commonly controlled entities. Likewise, the Commission will make a single incentive payment for relinquished combined spectrum usage rights, regardless of the number of licenses relinquished or, in the case of consolidated holdings of a group of incumbents that are commonly controlled entities, the number of licensees relinquishing licenses.

VI. Reconfiguring Aggregated 39 GHz Holdings for Modified Licenses

36. In the *Spectrum Frontiers Fourth R&O,* the Commission directed the Bureau to determine the best methodology for implementing a mathematical optimization to reconfigure incumbent holdings. This *Public Notice* describes the optimization and reconfiguration. Appendix A provides additional details for implementing the reconfiguration, including the mathematical formulation of the optimization. The Commission further directed the Bureau to announce the methodology and process for each incumbent to propose alternative reconfigurations. At the same time, the Commission directed the Bureau to announce the process for each incumbent to elect how to proceed. That process is addressed in the *Public Notice,* as well as in Appendix D.

37. Prior to reconfiguration, the Commission already will have: (1) Quantified the holdings provided by each existing license within each PEA in terms of MHz-pops; (2) aggregated (and, where applicable, consolidated) the holdings of incumbents; and (3) determined weights for MHz-pops in each PEA so that a single weighted MHz-pop can be considered a consistent unit across different PEAs. An incumbent's quantified and aggregated holdings in a PEA can be described in terms of the number of equivalent new licenses in the PEA by dividing the holdings in a PEA by the MHz-pops associated with a new license in that PEA. This division could be done with either weighted or unweighted MHz-pops, since the same weight will apply to MHz-pops of both existing holdings and new licenses. The Commission will use weighted MHz-pops, as any remainder quantity representing the equivalent of a partial PEA license will be subject to being transferred to other PEAs in the reconfiguration. The result will equal the number of whole and partial new licenses in that PEA that would provide spectrum usage rights equivalent to the incumbent's aggregated holdings in that PEA under an incumbent's existing 39 GHz licenses.

A. Reconfigurations Proposed by the Commission

38. The Commission directed the Bureau to reconfigure 39 GHz holdings of incumbent licensees. Subject to specified constraints, the Commission will implement the reconfiguration using a mathematical optimization. The optimization will consider all possible ways to reconfigure the incumbent's holdings equivalent to a partial PEA license such that in the reconfiguration, the incumbent will have at most a single modified partial PEA license while keeping constant the incumbent's total weighted MHz-pops, and then choose the reconfiguration that minimizes the unassigned weighted MHz-pops in the

PEA with a partial PEA license. In a PEA where an incumbent has aggregated holdings that would result in a modified license for a partial PEA, the optimization either will increase the incumbent's holding to a full PEA license, decrease the holding to zero, or for at most one PEA, assign weighted MHz-pops that will result in a partial PEA license, as needed to maintain the incumbent's total combined holdings. Among the reconfigurations that meet these criteria, the Commission will propose the reconfiguration that assigns any modified license for a partial PEA in the PEA with the fewest remaining unassigned weighted MHz-pops. Taking into account the process for determining the geography of the modified partial PEA license, and as detailed in Appendix A, the PEA with the partial PEA license is the one that contains the smallest number of weighted MHz-pops left unassigned after subtracting the MHz-pops for the area covered by the modified license. As described in the *Public Notice,* and pursuant to the *Spectrum Frontiers Fourth R&O,* the reconfiguration will also take into account whether the incumbent's holdings would leave only a *de minimis* percentage of a whole new license unassigned and therefore the holdings would be rounded up and a modified license based on the holdings would be equivalent to a whole new license, leaving no white space.

B. Alternative Reconfigurations Proposed by Incumbents

39. Commission directed the Bureau to announce a methodology and process by which each incumbent may propose an alternative reconfiguration plan, provided that it satisfies certain conditions. To be an acceptable alternative reconfiguration, the incumbent's plan must satisfy the following constraints: The incumbent's combined total MHz-pops holdings are kept constant; for every PEA but one, the incumbent's updated aggregate holdings in the PEA are reduced down to the greatest integer less than or equal to the incumbent's updated aggregate holdings in the PEA or increased up to the least integer greater than or equal to its updated aggregate holdings in the PEA; and for a single PEA in which the incumbent has final aggregate holdings equivalent to a partial PEA license, its holdings are increased to less than the equivalent of a new license, as needed to maintain the incumbent's combined holdings. Unlike the Commission's reconfiguration proposal, an incumbent's alternative reconfiguration need not locate any modified license for a partial PEA in the PEA with the fewest remaining unassigned weighted MHz-pops.

C. Reconfigured Holdings Equivalent to a Partial PEA

40. In the *Spectrum Frontiers Fourth R&O,* the Commission determined that any modified license would be for 100 megahertz, the complete bandwidth of a new license. Accordingly, the single modified license for a partial PEA that an incumbent may receive would be a license for a part of the geographic area covered by a new license. Such licenses are ''partial'' in relation to the geography of a full PEA covered by a new license. Within the reduced coverage area set by its boundaries, a ''partial'' PEA license provides the same rights that a new license provides in the full PEA.

1. Rounding

41. The Commission concluded in the *Spectrum Frontiers Fourth R&O* that, if an incumbent's holdings in a PEA after reconfiguration are equivalent to less than a full new license yet would cover so much of the PEA's population that the remaining uncovered portion should be considered *de minimis,* the incumbent should be assigned a modified license that covers the full PEA.

42. The Commission set this *de minimis* threshold at 5% and directed the Bureau to determine whether it should be increased up to 10%. The Bureau tentatively concludes that it should increase the *de minimis* threshold to 10%. Accordingly, an incumbent would receive a modified license for a full PEA if it has reconfigured holdings in the PEA that would cover 90% or more of the PEA population. In other contexts, the Commission previously has found that service area extensions of more than 10% were acceptable. The Bureau believes that this approach will maximize the number of full PEA licenses, and based on its experience the Bureau believes that the benefits of offering modified licenses for the full PEAs now clearly outweigh the benefits of offering separate licenses that cover less than 10% of the PEA population, which would likely attract few, if any significant bids. The Bureau seeks comment on this tentative conclusion.

2. Option To Relinquish

43. The Commission decided in the *Spectrum Frontiers Fourth R&O* that an incumbent that commits to accept modified licenses that include a modified license for a partial PEA may choose to relinquish only the spectrum usage rights relating to the modified license for a partial PEA in exchange for an incentive payment. An incumbent exercising this option will not be eligible to bid for licenses in Auction 103, in contrast to an incumbent that commits to relinquishing all its spectrum usage rights pursuant to existing 39 GHz licenses.

44. An incumbent with reconfigured holdings that will result in a full PEA license due to reconfigured *de minimis* rounding, may either accept a modified license for the full PEA or relinquish the pre-rounding holdings. In other words, incentive payments will not be based on holdings rounded by reconfigured *de minimis* rounding. For example, if the partial PEA holding was .96 (covering 96% of pops in the PEA), the incumbent could elect to either receive a modified license in that PEA that would cover the entire PEA, or it could choose to relinquish that partial holding for 96% of the final clock phase price in the auction.

3. Boundaries of Modified Licenses for Partial PEAs

45. The Commission decided in the *Spectrum Frontiers Fourth R&O* that the geographic boundaries of a modified license for a partial PEA will be determined by adjusting the incumbent's currently licensed area in the PEA. The Commission specified that ''[t]he proposed geographic boundaries for the partial PEA block will be as similar as possible to the incumbent's original holdings in that PEA, recognizing that the remaining partial PEA block may cover a larger or smaller percentage of pops than the existing license.'' The Bureau describes here the proposed methodology that will be used to determine these geographic boundaries for a partial PEA, whether it resulted from a Commission reconfiguration proposal or an acceptable alternative submitted by the incumbent. An incumbent will not choose the geographic boundaries of a modified license for a partial PEA. The Commission's process will determine the geographic boundaries of the modified license even though the incumbent selects the PEA when it submits an acceptable alternative reconfiguration. The precise geographic boundaries of a modified license for a partial PEA will be determined only after an incumbent makes its Initial Commitment.

46. An incumbent may have multiple licenses in any one PEA and it is possible that the incumbent's licenses in the PEA together cover the full geography of the PEA. This can happen with even a single license for less than 100 megahertz in the PEA, if the

incumbent currently holds 50 megahertz across the full PEA. To determine the geographic boundaries of a modified license for a partial PEA, the system will first determine the incumbent's current geographic coverage as the union of any two-by-two kilometer grid cells included in any of the incumbent's existing licenses for the PEA. The boundaries of this starting coverage area will be mapped over the same two-by-two kilometer grid cells previously used to estimate the population of the PEA. The population of all grid cells whose internal points fall within the boundary of this coverage area will constitute the baseline population covered by a modified license for a partial PEA.

47. The process then will add (or, in the case that the population in the coverage area exceeds the reconfigured holdings, subtract) two-by-two kilometer grid cells adjacent to this coverage area within the PEA until arriving at the population as close to the MHz-pops value of the incumbent's reconfigured holdings in the PEA as possible while not being under. If including (or removing) an entire layer of grid cells (*i.e.,* all two-by-two kilometer grid cells within the PEA that are immediately adjacent to this coverage area) would exceed the new target population value for this partial PEA holding, then grid cells will be added (or removed) such that the population of the cells is as close as possible to the value of the reconfigured holdings without going under. If multiple combinations of grid cells could yield the same outcome, the optimization will randomly choose one grid cell over the other. The Bureau seeks comment on this proposed process.

VII. Initial Commitments

48. The Commission will announce the timeline for the Initial Commitment process at the same time it announces its proposed reconfiguration of 39 GHz license holdings for each incumbent. The timeline will include a window for filing the Incumbent 39 GHz Licensee Short-Form Application (FCC Form 175–A) to identify the individuals who will have authority to act as Initial Commitment Representatives for the incumbent. In addition, the timeline will include a deadline for a binding Initial Commitment regarding the 39 GHz holdings of the applicable incumbent. The window for filing FCC Form 175–A will open no sooner than 30 days after the timeline is announced and the deadline for submitting Initial Commitments will be no sooner than 30 days after the FCC Form 175–A filing window opens. Any 39 GHz incumbent not named in a submitted FCC Form 175–A or that does not make an Initial Commitment for any reason will be considered to have committed to accepting modified licenses based on the Commission's proposed reconfiguration (Option 1), including any modified license for a partial PEA, and may not apply to bid for licenses in Auction 103.

49. The Commission will reserve a quantity of Upper 37 GHz and 39 GHz spectrum blocks in each PEA sufficient for any modified licenses that incumbents commit to accept. The quantity of spectrum blocks in these bands remaining in each PEA then will be available to be assigned as new licenses in Auction 103.

50. The final changes to the incumbents' licenses, whether modifications or cancellations based on voluntary relinquishment, will occur after winning bidders are announced in Auction 103. Nevertheless, the incumbents will be bound to fulfill their Initial Commitments following the announcement of winning bidders in Auction 103.

A. Incumbent 39 GHz Licensee Short-Form Application

51. Each incumbent will use the 39 GHz Incumbent Licensee Short-Form Application (FCC Form 175–A) to provide identifying information, information for a contact person regarding the application, the FCC Registration Numbers (FRNs) of all individual licensees represented through the application, up to three Initial Commitment Representative(s), and required certifications. The applicant may name up to three individuals as Initial Commitment Representatives authorized to make an Initial Commitment regarding the combined holdings of the 39 GHz licensees represented through the application. The Bureau will make available instructions and other educational materials prior to the opening of the FCC Form 175–A filing window.

52. *Initial Commitment Representatives.* The required certifications will include a certification that the applicant represents the listed licensees and is authorized on their behalf to name the Initial Commitment Representative(s) in the application. The applicant must further certify that the named Initial Commitment Representative(s) are authorized to make a binding Initial Commitment with respect to all 39 GHz licenses held by the listed licensees. To satisfy this certification, the Initial Commitment Representative(s) must have authority to: (1) Propose an alternative reconfiguration as the basis for modified licenses with respect to all 39 GHz licenses held by the listed licensees; (2) commit the listed licensees to accept modified licenses as part of an Initial Commitment; (3) relinquish spectrum usage rights that would comprise a modified partial PEA license in exchange for an incentive payment; (4) commit the listed licensees to relinquishing all the spectrum usage rights pursuant to all existing 39 GHz licenses held in exchange for an incentive payment; (5) redistribute the holdings of the listed licensees in Round Zero of the auction; and (6) in any application with more than one listed licensee, designate one of the commonly controlled entities to receive any incentive payment.

53. *Rule Prohibiting Certain Communications.* Any incumbent 39 GHz licensee listed in an FCC Form 175–A will be considered to be an applicant in Auction 103 for purposes of § 1.2105(c) beginning on the deadline for filing FCC Form 175–A. Section 1.2105(c)(1) of the Commission's rules provides that, subject to specified exceptions, after the application filing deadline, ''all applicants are prohibited from cooperating or collaborating with respect to, communicating with or disclosing, to each other or any nationwide provider [of communications services] that is not an applicant, or, if the applicant is a nationwide provider, any non-nationwide provider that is not an applicant, in any manner the substance of their own, or each other's, or any other applicants' bids or bidding strategies (including post-auction market structure), or discussing or negotiating settlement agreements, until after the down payment deadline. . .''

54. Auction 103 bidding will have significant consequences for incumbent 39 GHz licenses that relinquish spectrum usage rights. Bidding for new licenses in Auction 103 will determine the amounts of incentive payments for relinquished spectrum usage rights as well as the winning bidders for new licenses. Consequently, an incumbent licensee will have a substantial interest in Auction 103 bids and bidding strategies, even if the incumbent itself does not bid for new licenses. For example, an incumbent might want new license bidders to bid in one PEA rather than another so as to increase the incumbent's related incentive payments. Even before bidding for new licenses begins, an incumbent might seek information about bidding, or seek to influence future bidding, when considering its options for its Initial

Commitment. Accordingly, pursuant to the *Spectrum Frontiers Fourth R&O,* the Bureau proposes that applicants will be subject to the rule prohibiting certain communications whether they file an FCC Form 175–A or an FCC Form 175. An incumbent interested in bidding on licenses in Auction 103 will file both. Any party that is an applicant in Auction 103 for either purpose will be prohibited from certain communications with any other applicant in the incentive auction, *i.e.,* irrespective of whether the other applicant filed the same or different forms for purpose of participating in the auction.

55. The rule would apply to a covered incumbent from the deadline for filing FCC Form 175–A regardless of whether the incumbent ultimately relinquishes spectrum usage rights. Being listed on an FCC Form 175–A is a prerequisite to relinquishing spectrum usage rights in Auction 103 just as FCC Form 175 is a prerequisite to bidding on new licenses in Auction 103. Any incumbent 39 GHz licensee that is listed on an FCC Form 175–A is willing and able to relinquish existing spectrum usage rights, even if ultimately it does not do so. In contrast, an incumbent that wants only to commit to accept the modification proposed by the Commission may do so without filing an FCC Form 175–A. In that case, it will be deemed to have committed to accepting modified licenses based on the Commission's proposed reconfiguration and to keeping any modified partial PEA license. As only incumbent 39 GHz licensees may be represented through an FCC Form 175–A, the parties subject to the prohibition based on that form will be limited and easily known. Moreover, the Bureau will identify applicants and listed licensees on FCC Form 175–A and/or applicants filing FCC Form 175 by public notice subsequent to the respective filing deadlines for the forms.

56. The Commission will detail the operation of the prohibition in future public notices setting forth the detailed procedures for Auction 103. Interested parties seeking additional guidance prior to the release of those future public notices may consult the analogous *Auction 101 and 102 Procedures Public Notice,* past public notices providing guidance with respect to the rule, and the authorities listed on the Commission's website.

57. The rule prohibiting certain communications prohibits those communications between applicants and nationwide providers, regardless of whether those nationwide providers are applicants in the auction. The operation of the rule requires that the Commission identify nationwide providers for purposes of the rule in connection with each auction. Because the applicable service rules allow a 39 GHz licensee to provide flexible terrestrial wireless services, including mobile services, the Commission's identification of nationwide providers in the *Communications Marketplace Report* provides reasons to identify the same parties as nationwide providers for purposes of 39 GHz licenses and Auction 103. Accordingly, consistent with the procedures adopted for Auctions 101 and 102 with respect to millimeter wave bands, the Bureau identifies AT&T, Sprint, T-Mobile, and Verizon Wireless as ''nationwide providers'' for the purpose of implementing its competitive bidding rules in Auction 103, including § 1.2105(c), the rule prohibiting certain communications.

58. *SecurID® tokens.* Initial Commitment Representatives will choose an Initial Commitment option with respect to the 39 GHz holdings of licensees listed on the applicable FCC Form 175–A and submit that choice over the internet using the Commission's Initial Commitment System. Each Initial Commitment Representative must have his or her own SecurID® token, which the Commission will provide at no charge. An Initial Commitment Representative cannot access the Initial Commitment System without his or her SecurID token. For security purposes, the SecurID® tokens will be mailed only to the contact person at the contact address listed on the FCC Form 175–A. SecurID® tokens issued for other auctions or obtained from a source other than the Commission will not work for Initial Commitments. Incumbents that also file FCC Form 175 to bid for new licenses in Auction 103 should refer to the procedures that will be established in other public notices for information regarding SecurID® tokens for the authorized bidders they identify on the FCC Form 175.

B. Initial Commitment Options

59. An Initial Commitment Representative may access the Initial Commitment System after activating his or her own SecurID® token. In the Initial Commitment System, the Initial Commitment Representative will commit the represented 39 GHz incumbent licensees to one of three Initial Commitments: (1) Accept modified licenses based on the Commission's proposed reconfiguration of the 39 GHz holdings of the incumbent(s); (2) accept modified licenses based on a submitted acceptable alternative reconfiguration submitted by the incumbent; or (3) relinquish all spectrum usage rights pursuant to the licensees' existing 39 GHz licenses in exchange for an incentive payment by having the licenses cancelled. To be able to bid for new licenses, an incumbent 39 GHz licensee must commit to having its existing 39 GHz licenses cancelled.

60. *Option 1.* If an Initial Commitment Representative selects the first option and the modified licenses will include a license for a partial PEA, the representative may choose either to keep the modified license for a partial PEA or to relinquish the spectrum usage rights for the partial PEA license in exchange for an incentive payment. If the representative elects to keep the modified partial PEA license, the *de minimis* rounding rules will apply, potentially rounding the partial PEA block up to a modified license for a full PEA block. In the case of a relinquishment, the reconfiguring incumbent will receive an incentive payment based on the actual MHz-pops of the relinquished holdings. The Commission will provide instructions subsequently regarding how a representative will provide information regarding the account to which the incentive payment should be made. Only one payment will be made for the combined holdings of an incumbent even when the incumbent is a group of commonly controlled entities that hold 39 GHz licenses.

61. *Option 2.* An Initial Commitment Representative also may use the Initial Commitment system to submit an acceptable alternative reconfiguration. To ensure that the alternative reconfiguration meets the necessary requirements, where an incumbent has weighted MHz-pops quantities equivalent to a partial PEA, the Initial Commitment System will allow the representative to round those holdings *either* down to the greatest integer less than or equal to the incumbent's updated holdings *or* up to the least integer greater than or equal to the incumbent's updated holdings, for all but one of those PEAs.

62. The system will notify the representative if choices made are not consistent with leaving at most one PEA with the equivalent of a partial PEA license. For example, if the representative has indicated that it wishes to round down holdings equivalent to partial PEA licenses in all but one PEA, and the remaining weighted MHz-pops would increase those holdings in the remaining PEA to more than a full PEA license, the system will require the representative to readjust its holdings.

63. Once the representative has provided input that leads to an acceptable alternative reconfiguration, it may ''submit'' the reconfiguration and commit the represented 39 GHz incumbent licensees to accept modified licenses based on the submitted acceptable alternative reconfiguration. If the modified licenses would include a license for a partial PEA, the representative may choose either to keep that license or to relinquish the spectrum usage rights for it in exchange for an incentive payment. If the representative elects to keep the modified partial PEA license, the *de minimis* rounding rules will apply, potentially rounding the partial block up to a modified license for a full block. If the representative elects to relinquish the partial block, the reconfiguring incumbent will receive an incentive payment based on the actual MHz-pops of the relinquished holdings. The Commission will provide instructions subsequently regarding how a representative will provide information regarding the account to which the incentive payment should be made. Only one payment will be made for the combined holdings of an incumbent even when the incumbent is a group of commonly controlled entities that hold 39 GHz licenses.

64. *Option 3.* Finally, an Initial Commitment Representative may select the third option and commit the represented 39 GHz incumbent licensees to relinquish all spectrum usage rights under their existing 39 GHz licenses in exchange for an incentive payment and having the existing licenses cancelled. To be able to bid in the auction for new licenses, an incumbent must commit to cancelling all its existing 39 GHz licenses. If the representative chooses the third option, the system will give the representative an opportunity during the Initial Commitment process to reallocate, within constraints, any updated aggregated holdings per PEA that are equivalent to a partial PEA license in the Round Zero process.

65. In Round Zero, the Initial Commitment Representative may reallocate the incumbent's updated aggregated holdings per PEA that are equivalent to a partial PEA license among the PEAs in which it has such holdings. The reallocation will be done by transferring weighted MHz-pops among eligible PEAs. If the reallocation does not use all of the weighted MHz-pops available, the system will permit the representative to submit the proposed reallocation and will automatically apportion any unused weighted MHz-pops to the partial PEAs in the incumbent's updated aggregated holdings by PEA, starting with the lowest numbered PEA.

66. The Commission will provide instructions subsequently regarding how a representative will provide information regarding the account to which the incentive payment should be made. Only one payment will be made for the combined holdings of an incumbent even when the incumbent is a group of commonly controlled entities that hold 39 GHz licenses.

67. Appendix D provides additional description of the Initial Commitment System details. The Bureau will provide additional information and educational materials regarding the Initial Commitment System in advance of the opening of the Initial Commitment submission window.

C. Transition for Existing 39 GHz Licenses

68. Each 39 GHz existing licensee will hold its existing licenses until after the announcement of winning bidders for new licenses. The incumbent's binding Initial Commitment then will be put into effect as part of the post-auction transition.

69. For an incumbent with an Initial Commitment to accept modified licenses (Options 1 or 2), the modified licenses will be assigned after winning bidders are announced in Auction 103. The Initial Commitment will be made based on an applicable reconfiguration of the incumbent's combined holdings, so the number and PEA location of all the modified licenses will be known at the time of the Initial Commitment. However, the geographic boundaries of any modified license for a partial PEA will be determined only after the Initial Commitments. Moreover, frequencies for modified licenses can be assigned only after the assignment phase of the auction.

70. Incumbents that will be assigned modified licenses already have existing licenses in the PEA and may be able to transition any existing operations to new frequencies (or geographic areas in the case of licenses that either covered or now cover only part of a PEA) before any new licenses are granted, as new licenses won pursuant to Auction 103 will not be issued until after post-auction payments are made and license applications are accepted and reviewed. The Bureau will support this transition by designating the time period after the close of the auction and before new licenses are granted as the transition period for incumbents receiving modified licenses to make the transition. Specifically, the Bureau will issue modified licenses after the close of the auction but not cancel these incumbents' authorizations on their original frequencies to allow for a limited transition period. The Bureau will cancel their original authorizations only after the transition has been made to the new frequencies or when the original frequencies are needed for new licenses, whichever is sooner. If an incumbent choosing to have its licenses modified is moving to frequencies where another incumbent with modified licenses holds its original licenses, the Bureau will need to ensure only one authorization is active. In this case, the Commission would develop a plan to accommodate the transition of both incumbents, which may include granting Special Temporary Authorizations (STAs) to effectuate the transition. The Commission may also consider granting STAs if an incumbent's transition to its new modified frequencies has not been completed before the Commission is ready to grant new licenses in the same frequencies.

71. For an incumbent that commits to relinquish all 39 GHz spectrum usage rights in exchange for an incentive payment (Option 3), the Bureau will cancel the licenses providing the relinquished spectrum usage rights after the winning bidders are announced in Auction 103. This will make associated spectrum available for authorization for licenses under the new band plan, *i.e.,* modified licenses and new licenses won at auction. The Bureau recognizes that, if these incumbents have existing operations at the time of the close of the auction, they will need a transition period to continue to operate after their existing licenses are canceled and before their new licenses are issued (or until they can transition existing operations to other spectrum bands in which they hold licenses). This transition period will be accommodated through Special Temporary Authorizations (STAs).

72. *STA Process.* Incumbents that have existing operations and need continuing authority to operate as they transition to new frequencies can apply for an STA, if needed, to ensure continuity of service. An incumbent will need to explain in its STA request the nature of its existing operations and identify how much time for transition it needs and/or why it was unable to complete the transition in the initial time allotted (if applicable). Any STAs granted will authorize the incumbent to operate only on a secondary, non-interfering basis, and only up to 180 days. These STAs will be issued on a secondary, non-interfering basis, and therefore new licensees in these frequencies have primary operating

authority. Although these STAs will be secondary, incumbents should have sole use of the frequencies authorized for a period of time because the Commission will not be able to grant its first set of new licenses immediately after the auction closes, due to the additional time required for application submission, payments, and the petition to deny period, among other things. These STAs will not be renewed absent extraordinary circumstances. Incumbents that need additional time to transition also have the option to negotiate leases or other arrangements with the new licensee(s) authorized to operate in those frequencies. The Bureau will provide the filing deadline for these types of STA requests in the Auction 103 Closing Public Notice announcing winning bidders.

D. Incentive Payments

73. Each incentive payment will be determined based on an incumbent's weighted MHz-pops holdings in a PEA after Round Zero and the final clock phase price for a spectrum block in the same PEA at the close of the clock phase of the auction. The Commission will make a single incentive payment with respect to an incumbent's combined holdings relinquished in the incentive auction. The Bureau tentatively concludes that such single payment may be directed only to one of the commonly controlled entities; the Bureau seeks comment on whether there is a need to permit the designation of a commonly controlled entity that does not already hold a 39 GHz license. The Bureau will provide instructions in a later public notice regarding how a representative for the incumbent, which may be a group of commonly controlled entities that hold 39 GHz licenses, will provide information regarding the account to which the incentive payment should be made.

74. Although, in general, winning bidders must pay their winning bids in full within approximately one month after release of the public notice announcing the close of an auction, winning bid payments are recognized as auction proceeds available to be shared as incentive payments only when the licenses associated with winning bid payments are granted. Until then, the Commission holds winning bid payments and will not disburse them. Accordingly, cash incentive payments will be made only after sufficient funds are available for disbursement, *i.e.,* winning bids have been paid and applications for new licenses related to those bids have been reviewed and granted.

75. An incumbent 39 GHz licensee with winning bids for new licenses in the auction must make any required winning bid payments before the Commission will process its application for new licenses. Pursuant to section 309(j)(4)(A) of the Communications Act, the Commission may use alternative payment schedules and methods of calculation in competitive bidding to promote economic opportunity and competition by avoiding excessive concentration of licenses and by disseminating licenses among a wide variety of applicants. In the *Spectrum Frontiers Fourth R&O,* the Commission found that assigning as much spectrum as possible through the auction serves the public interest and that enabling incumbents to retain equivalent rights without any additional payments would encourage them to relinquish spectrum usage rights under existing licenses. Accordingly, the Commission will process applications for new licenses after collecting winning bids, net of any winning bidder's expected incentive payment so long as such treatment of the incentive payment is consistent with Federal financial management principles and guidance.

VIII. Supplemental Initial Regulatory Flexibility Analysis

76. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), the Commission has prepared this Supplemental Initial Regulatory Flexibility Analysis (Supplemental IRFA) of the possible significant economic impact on small entities of the policies and rules addressed in this Public Notice to supplement the Commission's Initial and Final Regulatory Flexibility Analyses completed in the *Spectrum Frontiers Fourth R&O, Spectrum Frontiers Orders,* and other Commission orders pursuant to which Auction 103 will be conducted. Written comments are requested on this Supplemental IRFA. Comments must be identified as responses to the Supplemental IRFA and must be filed by the deadline for filing comments as specified in the *Public Notice.* The Commission will send a copy of the *Public Notice,* including the Supplemental IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA).

77. *Need for, and Objectives of, the Proposed Rules.* The *Public Notice* explains how the Bureau proposes to implement the steps described in the *Spectrum Frontiers Fourth R&O* to reconfigure incumbents' 39 GHz licenses to better match the new 39 GHz band plan and service rules adopted by the Commission and allow incumbents to make binding Initial Commitments through the Commission's Initial Commitment System. It also describes the process by which an incumbent 39 GHz licensee will have an opportunity to make a binding Initial Commitment through the Commission's Initial Commitment System to (1) have its licenses modified based on the Commission's proposed reconfiguration of its license holdings (and forgo bidding for new licenses in Auction 103); (2) have its licenses modified based on an acceptable alternative reconfiguration that the incumbent proposes, provided that it satisfies certain specified conditions (and forgo bidding for new licenses in Auction 103); or (3) commit to relinquish its licenses in exchange for an incentive payment and have its licenses cancelled, with the ability to bid for new licenses if it so chooses.

78. The *Public Notice* is intended to provide notice of and opportunity for interest parties to comment on the procedures described. The proposed procedures in the *Public Notice* constitute the more specific implementation of the decisions contemplated by the underlying rulemaking orders, including the *Spectrum Frontiers Orders* and relevant competitive bidding orders, and are fully consistent with those decisions. The Commission welcomes comment on all aspects of the process and specifically seeks comment on the following:

- A methodology for setting weights to apply to spectrum holdings in different Partial Economic Areas (PEAs);
- The *de minimis* standard for reconfigured holdings that cover most but not all of a PEA; and
- How to determine the geographic scope of modified licenses, if any, that cover less than a full PEA.

79. *Legal Basis.* The Commission's statutory obligations to small businesses under the Communications Act of 1934, as amended, are found in sections 309(j)(3)(B) and 309(j)(4)(D). The statutory basis for the Commission's competitive bidding rules is found in various provisions of the Communications Act of 1934, as amended, including 47 U.S.C. 154(i), 301, 302, 303(e), 303(f), 303(r), 304, 307, and 309(j). The Commission has established a framework of competitive bidding rules, updated most recently in 2015, pursuant to which it has conducted auctions since the inception of the auction program in 1994 and would conduct Auctions 103.

80. *Description and Estimate of the Number of Small Entities to Which the Proposed Rules Will Apply.* The RFA

directs agencies to provide a description of, and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules and policies, if adopted. The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act. A ''small business concern'' is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA.

81. Regulatory Flexibility Analyses were incorporated into the *Spectrum Frontiers Orders* and in those analyses, the Commission described in detail the small entities that might be significantly affected. Accordingly, in this *Public Notice,* the Bureau hereby includes by reference the descriptions and estimates of the number of small entities from the previous Regulatory Flexibility Analyses in the *Spectrum Frontiers Orders.*

82. Based on the information available in the Commission's public Universal Licensing System (ULS), the Commission estimates there are 16 incumbent 39 GHz licensees. Of these incumbent 39 GHz licensees, the Commission estimates that up to 8 could be considered to be a ''small entity'' under the RFA.

83. *Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements.* The Commission designed the reconfiguration and Initial Commitment processes to minimize reporting and compliance requirements for participating incumbent licensees, including those that are small entities. For example, incumbent 39 GHz licensees desiring to make an Initial Commitment will need to file an Incumbent 39 GHz Licensee Short-Form Application (FCC Form 175–A), which the Commission will use to provide an incumbent 39 GHz licensee (or, if applicable, a group of commonly controlled entities that hold 39 GHz licenses) with access to the Initial Commitment System in order to make an Initial Commitment regarding existing 39 GHz spectrum holdings. The information that must be provided on FCC Form 175–A is limited to that which is necessary to enable the Commission to provide incumbent 39 GHz licensees with access Initial Commitment System for purposes of making their Initial Commitments.

84. The Bureau does not expect that the reconfiguration and Initial Commitment processes and procedures will require small entities to hire attorneys, engineers, consultants, or other professionals because the information necessary to comply with these processes and procedures should be available and maintained as part of the customary and usual business or private practice of all incumbent 39 GHz licensees.

85. *Steps taken to Minimize Significant Economic Impact on Small Entities, and Significant Alternatives.* The RFA requires an agency to describe any significant, specifically small business, alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): ''(1) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance and reporting requirements under the rule for such small entities; (3) the use of performance rather than design standards; and (4) an exemption from coverage of the rule, or any part thereof, for such small entities.''

86. The Commission has taken steps that should minimize any economic impact that the proposed reconfiguration and Initial Commitment processes and procedures may have on small businesses. As an initial matter, the procedures only apply to incumbent 39 GHz licensees. Moreover, the Commission has made an effort to minimize the burden on all participating incumbent 39 GHz licensees, regardless of size, by limiting the information collected on FCC Form 175–A to that which is necessary to enable the Commission to provide an incumbent 39 GHz licensee (or, if applicable a group of commonly controlled entities that hold 39 GHz licenses) with access to the Initial Commitment System in order to make an Initial Commitment regarding existing 39 GHz spectrum holdings. Finally, detailed instructions and guidance to incumbent 39 GHz licensees about filing FCC Form 175–A, including the filing deadline, will be provided in advance of the start of the FCC Form 175–A filing window, and Bureau staff will be conducting outreach to all incumbents to ensure that they are informed of their options, thereby further minimizing any burdens on incumbent 39 GHz licensees that desire to make an Initial Commitment, including those that are small entities.

87. *Federal Rules that May Duplicate, Overlap, or Conflict with the Proposed Rules.* None.

IX. Ordering Clauses

88. *It is ordered* that, pursuant to sections 309 and 316 of the Communications Act of 1934, as amended, 47 U.S.C. 309, 316, and the authority delegated in the *Spectrum Frontiers Fourth R&O,* FCC 18–180, and 47 CFR 0.271, 0.331, the licenses of all 39 GHz band licensees are hereby modified as specified in the *Spectrum Frontiers Fourth R&O* and further explained in the *Public Notice.*

89. *It is further ordered* that applications for transfers or assignments of 39 GHz licenses other than pursuant to the exception described in the *Public Notice will not be accepted* during the period described in the *Public Notice.*

90. *It is further ordered* that a copy of the *Public Notice,* including the Supplemental Initial Regulatory Flexibility Analysis, *shall be sent* to the Chief Counsel for Advocacy of the Small Business Administration.

Federal Communications Commission.

Blaise Scinto,

Division Chief. Broadband Division, Wireless Telecommunications Bureau.

[FR Doc. 2019–05911 Filed 3–27–19; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 555

[Docket No. NHTSA–2019–0019]

Hemphill Brothers Leasing Company; Receipt of Petition for Temporary Exemption From Shoulder Belt Requirement for Side-Facing Seats on Motorcoaches

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Notice of receipt of a petition for a temporary exemption; request for comment.

SUMMARY: Hemphill Brothers Leasing Company, LLC (Hemphill) has submitted a petition, dated April 5, 2018, for a temporary exemption from a shoulder belt requirement of Federal Motor Vehicle Safety Standard (FMVSS) No. 208, ''Occupant crash protection,'' for side-facing seats on motorcoaches. NHTSA is publishing this document in accordance with statutory and administrative provisions, and requests

comments on the petition and this notice. NHTSA has made no judgment on the merits of Hemphill's petition, except to note a few aspects of the petition that appear not to accord with the provisions of Part 555.

DATES: If you would like to comment on the petition, you should submit your comment not later than April 29, 2019.

FOR FURTHER INFORMATION CONTACT: Deirdre Fujita, Office of the Chief Counsel, NCC–200, National Highway Traffic Safety Administration, 1200 New Jersey Avenue SE, Washington, DC 20590. Telephone: 202–366–2992; Fax: 202–366–3820.

ADDRESSES: You may submit your comment, identified by the docket number in the heading of this document, by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* 1–202–493–2251.
- *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.

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, the agency encourages 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 see below.

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 a copy, 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).

SUPPLEMENTARY INFORMATION:

I. Background

a. Statutory Authority for Temporary Exemptions

The National Traffic and Motor Vehicle Safety Act (Safety Act), codified as 49 U.S.C. chapter 301, provides the Secretary of Transportation authority to exempt, on a temporary basis, under specified circumstances, and on terms the Secretary deems appropriate, motor vehicles from a motor vehicle safety standard or bumper standard. This authority and circumstances are set forth in 49 U.S.C. 30113. The Secretary has delegated the authority for implementing this section to NHTSA.

NHTSA established 49 CFR part 555, *Temporary Exemption from Motor Vehicle Safety and Bumper Standards,* to implement the statutory provisions concerning temporary exemptions. Under Part 555 subpart A, a vehicle manufacturer seeking an exemption must submit a petition for exemption containing specified information. Among other things, the petition must set forth (a) the reasons why granting the exemption would be in the public interest and consistent with the objectives of the Safety Act, and (b) required information showing that the manufacturer satisfies one of four bases for an exemption.[1] Hemphill is applying on the basis that 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 (*see* 49 CFR 555.6(d)). A manufacturer is eligible for an exemption under this basis only if NHTSA determines the exemption is for not more than 2,500 vehicles to be sold in the U.S. in any 12-month period. An exemption under this basis may be granted for not more than 2 years but may be renewed upon reapplication.[2]

b. Receipt of Petition

In accordance with 49 U.S.C. 30113 and the procedures in 49 CFR part 555, Hemphill submitted an April 5, 2018 dated petition asking NHTSA for a temporary exemption from the shoulder belt requirement of FMVSS No. 208 for side-facing seats on its motorcoaches. The basis for the application is that compliance would prevent Hemphill from selling a motor vehicle with an overall safety level at least equal to the overall safety level of nonexempt vehicles (49 CFR 555.6(d)). To view the petition (and documents Hemphill later submitted amending it), go to *http://www.regulations.gov* and enter the docket number set forth in the heading of this document.[3]

Hemphill describes itself as a second-stage manufacturer[4] organized under the laws of Tennessee. The petitioner states that it typically receives a bus shell[5] from an ''original manufacturer'' and ''customizes the Over-the-Road Bus ('OTRB') to meet the needs of entertainers, politicians, musicians, celebrities and other specialized customers who use motorcoaches as a necessity for their businesses.''

[1] 49 CFR 555.5(b)(5) and 555.5(b)(7).

[2] 555.8(b) and 555.8(e).

[3] On December 26, 2018, NHTSA published a final rule that amended 49 CFR part 555, effective January 25, 2019, to eliminate a provision that called for the agency to determine that a petition is complete before NHTSA publishes a notice summarizing the petition and soliciting public comments on it (83 FR 66158).

[4] While ''second-stage manufacturer'' is not defined in NHTSA's regulations, the agency believes Hemphill is referring to a ''final-stage manufacturer,'' which is defined in NHTSA's certification regulation (49 CFR part 567) as ''a person who performs such manufacturing operations on an incomplete vehicle that it becomes a completed vehicle'' (49 CFR 567.3).

[5] The petition states (p. 2) that the bus shell ''generally contains the following components: exterior frame; driver's seat; dash cluster, speedometer, emissions light and emissions diagnosis connector; exterior lighting, headlights, marker lights, turn signals lights, and brake lights; exterior glass, windshield and side lights with emergency exits; windshield wiper system; braking system; tires, tire pressure monitoring system and suspension; and engine and transmission.''

Hemphill states that it ''builds out the complete interior'' of the bus shell, including—

roof escape hatch; fire suppression systems (interior living space, rear tires, electrical panels, bay storage compartments, and generator); ceiling, side walls and flooring; seating; electrical system, generator, invertor and house batteries; interior lighting; interior entertainment equipment; heating, ventilation and cooling system; galley with potable water, cooking equipment, refrigerators, and storage cabinets; bathroom and showers; and sleeping positions.

Hemphill states that it also operates the vehicles as a for-hire motor carrier of passengers, ''leas[ing] the vehicle with driver to a customer on an exclusive basis for a designated period of time.'' The petitioner states that ''fewer than 100 entertainer-type motorcoaches with side-facing seats are manufactured and enter the U.S. market each year.'' Hemphill seeks to install Type 1 seat belts (lap belt only) at side-facing seating positions, instead of Type 2 seat belts (lap and shoulder belts) as required by FMVSS No. 208. Hemphill states that, absent the requested exemption, it will otherwise be unable to sell a motorcoach whose overall level of safety or impact protection is at least equal to that of a nonexempted motorcoach.

Pursuant to 49 CFR 555.6(d), an application must provide ''[a] detailed analysis of how the vehicle provides the overall level of safety or impact protection at least equal to that of nonexempt vehicles.'' Hemphill refers to NHTSA's discussions in an earlier NHTSA rulemaking, summarized below, about the absence of the need for, and safety concerns about, the shoulder portion of Type 2 belts on side-facing seats in certain buses.

c. Seat Belt Rulemaking

On November 25, 2013, NHTSA published a final rule amending FMVSS No. 208 to require seat belts for each passenger seating position in all new over-the-road buses (regardless of gross vehicle weight rating (GVWR)), and all other buses with GVWRs greater than 11,793 kilograms (kg) (26,000 pounds (lb)) (with certain exclusions).[6] The final rule became effective November 28, 2016 for buses manufactured in a single stage, and a year later for buses manufactured in more than one stage.

Hemphill is a final-stage manufacturer of buses covered by the seat belt rule. Thus, Hemphill's over-the-road buses and buses with a GVWR greater than 11,793 kg (26,000 lb), manufactured on or after November 28, 2017, are required to have Type 2 seat belts (lap and shoulder seat belts) at all passenger seating positions.

NHTSA commenced the seat belt rulemaking by publishing a notice of proposed rulemaking (NPRM) on August 18, 2010.[7] For side-facing seating positions, the NPRM proposed to provide manufacturers the option of installing either a Type 1 (lap belt) or a Type 2 (lap and shoulder belt).[8] This proposed option was consistent with a provision in FMVSS No. 208 that allows lap belts for side-facing seats on buses with a GVWR of 4,536 kg (10,000 lb) or less. The agency proposed to permit lap belts in side-facing seats because NHTSA was unaware of any demonstrable increase in associated risk of lap belts compared to lap/shoulder belts. The agency also stated[9] that ''a study commissioned by the European Commission regarding side-facing seats on minibuses and motorcoaches found that due to different seat belt designs, crash modes and a lack of real world data, it cannot be determined whether a lap belt or a lap/shoulder belt would be the most effective.''[10]

However, after the NPRM was published, the Motorcoach Enhanced Safety Act of 2012 was enacted as part of the Moving Ahead for Progress in the 21st Century Act (MAP–21), Public Law 112–141 (July 6, 2012). Section 32703(a) of MAP–21 directed the Secretary of Transportation (authority has been delegated to NHTSA) to ''prescribe regulations requiring safety belts to be installed in motorcoaches at each designated seating position.''[11] MAP–21 stated in § 32702(12): ''The term 'safety belt' has the meaning given the term in section 153(i)(4)(B) of title 23, United States Code.'' This provision defines ''safety belt'' as ''an occupant restraint system consisting of integrated lap shoulder belts.'' Thus, in response to MAP–21, NHTSA's final rule amended FMVSS No. 208 to require lap/shoulder belts at all designated seating positions, including side-facing seats, on over-the-road buses.[12]

At the same time, in the November 25, 2013 final rule preamble, NHTSA acknowledged that the agency had declined to require lap/shoulder belts on side-facing seats of light vehicles because NHTSA believed ''the addition of a shoulder belt at [side-facing seats on light vehicles] is of limited value, given the paucity of data related to side facing seats.''[13] NHTSA also recognized there have been concerns in the past about a shoulder belt on side-facing seats, noting in the final rule that, although the agency has no direct evidence that shoulder belts may cause serious neck injuries when applied to side-facing seats, there are simulation data indicative of potential carotid artery injury when the neck is loaded by the shoulder belt.[14] In addition, the agency noted that Australian Design Rule ADR 5/04, ''Anchorages for Seatbelts'' has specifically prohibited shoulder belts for side-facing seats since 1975. In the November 2013 final rule, NHTSA stated that given there would likely be few side-facing seats on over-the-road buses, and in view of the unknowns about shoulder belt loading of an occupant's neck on a side-facing seat,

manufacturers of over-the-road buses seeking to install lap belts on side-facing seats may petition NHTSA for a temporary exemption from the requirement to install lap/shoulder belt at side-facing seats, under 49 CFR part 555. The basis for the petition is that the applicant is unable to sell a bus whose overall level of safety is at least equal to that of a non-exempted vehicle. The agency would be receptive to the argument that, for side-facing seats, lap belts provide an equivalent level of safety to lap/shoulder belts.

78 FR at 70448.

d. Summary of Petitioner's Arguments

After reiterating NHTSA's discussions in the seat belt rulemaking, the petitioner states that NHTSA has not conducted testing on the impact or injuries to passengers in side-facing seats in motorcoaches, so ''there is no available credible data that supports requiring a Type 2 belt at the side-facing seating positions.'' Hemphill says that it believes if it complies with the final rule

[6] 78 FR 70416 (November 25, 2013); response to petitions for reconsideration, 81 FR 19902 (April 6, 2016).

[7] 75 FR 50958.

[8] 75 FR at 50971.

[9] 75 FR at 50971–50972.

[10] *http://ec.europa.eu/enterprise/automotive/projects/safety_consid_long_stg.pdf.* [Footnote in text.]

[11] MAP–21 states at § 32702(6) that ''the term 'motorcoach' has the meaning given the term 'over-the-road bus' in section 3038(a)(3) of the Transportation Equity Act for the 21st Century (49 U.S.C. 5310 note), but does not include a bus used in public transportation provided by, or on behalf of, a public transportation agency; or a school bus, including a multifunction school activity bus.'' Section 3038(a)(3) (49 U.S.C. 5310 note) states: ''The term 'over-the-road bus' means a bus characterized by an elevated passenger deck located over a baggage compartment.''

[12] For side-facing seats on buses other than over-the-road buses, in the final rule NHTSA permitted either lap or lap/shoulder belts at the manufacturer's option.

[13] 78 FR at 70448, quoting from the agency's Anton's Law final rule which required lap/shoulder belts in forward-facing rear seating positions of light vehicles, 59 FR 70907.

[14] Editors: Fildes, B., Digges, K., ''Occupant Protection in Far Side Crashes,'' Monash University Accident Research Center, Report No. 294, April 2010, pg. 57. [Footnote in text.]

as published, it would be ''forced to offer'' customers—

a motorcoach with a safety feature that could make the occupants less safe, or certainly at least no more safe, than if the feature was not installed. The current requirement in FMVSS 208 for Type 2 belts at side-facing seating positions in OTRBs makes the applicants unable to sell a motor vehicle whose overall level of safety is equivalent to or exceeds the level of safety of a non-exempted vehicle.

Pursuant to 49 CFR 555.5(b)(7), the petitioner must state why granting an exemption allowing it to install Type 1 instead of Type 2 seat belts in side-facing seats would be in the public interest and consistent with the objectives of the Safety Act.

In a May 11, 2018 email providing this information, Hemphill states that granting an exemption to allow manufacturers an option of installing a Type 1 lap belt at side-facing seating positions is consistent with the public interest because ''NHTSA's analysis in developing this rule found that such belts presented no demonstrable increase in associated risk.'' The petitioner also states that the final rule requiring Type 2 belts at side-facing seats ''was not the result of any change in NHTSA policy or analysis, but rather resulted from an overly broad mandate by Congress for 'safety belts to be installed in motorcoaches at each designated seating position.' '' Hemphill states that, ''based on the existing studies referenced herein and noted in the rulemaking, petitioners assert that Type 1 belts at side-facing seats may provide equivalent or even superior occupant protection than Type 2 belts.''

The petitioner believes that an option for Type 1 belts at side-facing seats is consistent with the objectives of 49 U.S.C. chapter 301 (the Safety Act) because, Hemphill states, § 30111(a) of the Safety Act states that the Secretary shall establish motor vehicle safety standards that ''shall be practicable, meet the need for motor vehicle safety, and be stated in objective terms.'' The petitioner states that—

an option for Type 1 or Type 2 belts at side-facing seating positions is practicable as it allows the manufacturer to determine the best approach to motor vehicle safety depending on the intended use of the vehicle and its overall design. Additionally, the option to install either Type 1 or Type 2 belts at such locations meets the need for motor vehicle safety as it is consistent with current analysis by NHTSA and the European Commission that indicates no demonstrable difference in risk between the two types of belts when installed in sideways-facing seats. Finally, the option for Type 1 or Type 2 belts at side-facing seat locations provides an objective standard that is easy for manufacturers to understand and meet.

Hemphill indicates that if there is no future NHTSA research, testing or analysis to justify the use of Type 2 belts in side-facing seats in over-the-road buses, it expects it will seek to renew the exemption, if granted, at the end of the exemption period.

e. NHTSA's Observations on Aspects of the Petition

There are aspects of Hemphill's petition that appear inconsistent with the provisions of Part 555 Subpart A. The agency acknowledges them here for the benefit of the reader.

First, in its petition, Hemphill asks that if NHTSA grants the exemption, the agency should apply the exemption ''retroactively to November 28, 2017.'' Petitions for temporary exemptions are prospective in application, not retroactive. Section 555.7(f) states: ''Unless a later effective date is specified in the notice of the grant, a temporary exemption is effective upon publication of the notice in the **Federal Register** and exempts vehicles manufactured on and after the effective date.'' Thus, if the petition is granted, it would apply to vehicles manufactured on and after the effective date of the exemption, which would be on publication of the notice or a later date.[15]

In its May 11, 2018 email, Hemphill argues that NHTSA has authority to establish a November 17, 2017 [16] effective date for the exemption under 49 U.S.C. 30111(d) of the Safety Act. Section 30111 authorizes NHTSA to prescribe FMVSSs, with subsection (d) generally prescribing the effective dates that NHTSA may specify for the FMVSSs.[17] Section 30111 does not apply to the effective dates for temporary exemptions.

Second, Hemphill states in its petition that it covers 39 ''other petitioners'' listed in an attachment to the petition. Under Part 555 Subpart A, only one petitioner is covered by a petition. Section 30113(b)(2) of the Safety Act provides that the agency may begin a proceeding ''when *a manufacturer*'' applies for an exemption (emphasis added). Under the terms of 49 CFR 555.5, ''*a manufacturer*'' may apply for a temporary exemption. In contrast, 49 CFR part 555 subpart B, ''Vehicles Built in Two or More Stages and Altered Vehicles,'' allows an industry trade association representing a group of alterers or manufacturers of motor vehicles built in two or more stages to file an economic hardship petition representing the interests of multiple manufacturers.[18] When NHTSA proposed to adopt subpart B, NHTSA described subpart B's allowing manufacturers to bundle petitions as ''relief not contained in the current version of part 555.'' [19] Thus, it appears Hemphill's April 5, 2018 petition for temporary exemption could be considered as only from Hemphill, and not as a bundled petition covering the other parties listed in the attachment to the petition.

f. Comment Period

The agency seeks comment from the public on the merits of Hemphill's petition for a temporary exemption from FMVSS No. 208's shoulder belt requirement for side-facing seats. After considering public comments and other available information, NHTSA will publish a notice of final action on the petition in the **Federal Register**.

Issued in Washington, DC, under authority delegated in 49 CFR 1.95 and 501.8.

Raymond R. Posten,

Associate Administrator for Rulemaking.

[FR Doc. 2019–05444 Filed 3–27–19; 8:45 am]

BILLING CODE 4910–59–P

[15] For vehicles that have already been manufactured, a manufacturer may petition for an exemption from the Safety Act's notice and remedy requirements when a noncompliance is inconsequential to motor vehicle safety. *See* 49 CFR part 556, ''Exemption for Inconsequential Defect or Noncompliance.''

[16] The petitioner does not explain why it changed the requested date from November 28 to November 17. NHTSA assumes Hemphill meant November 28.

[17] Regarding the motorcoach seat belt rulemaking, § 32703(e)(1) of MAP–21 prescribed the effective date for the rule. That section states that the regulation shall ''apply to all motorcoaches manufactured more than 3 years after the date on which the regulation is published as a final rule.'' NHTSA provided multi-stage manufacturers and alterers an additional year of lead time, in accordance with 49 CFR 571.8(b). *See,* 78 FR at 70463, col. 3.

[18] Subpart B applies to applications, based on substantial economic hardship, that seek a temporary exemption from a performance requirement for which an FMVSS specifies the use of a dynamic test procedure to determine compliance. Among other matters, the application must explain the substantial economic hardship to each of the manufacturers covered by the petition and provide a complete financial statement for each manufacturer and a complete description of each manufacturer's good faith efforts to comply with the standard. *See* 49 CFR 555.13.

[19] Supplemental notice of proposed rulemaking, 69 FR 36038, 36045 (June 28, 2004). The ''current version of part 555'' is a reference to Part 555 Subpart A, which is the subpart under which Hemphill submits its petition for temporary exemption.

Notices

Federal Register

Vol. 84, No. 60

Thursday, March 28, 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

Office of the Secretary

Request for Nominations of Members for the National Agricultural Research, Extension, Education, and Economics Advisory Board, Specialty Crop Committee, Citrus Disease Subcommittee, and National Genetic Resources Advisory Council

AGENCY: National Agricultural Research, Extension, Education, and Economics Advisory Board, Office of the Secretary, USDA.

ACTION: Solicitation for membership.

SUMMARY: In accordance with the Federal Advisory Committee Act, the U.S. Department of Agriculture (USDA) announces the opening of the solicitation for nominations to fill vacancies on the National Agricultural Research, Extension, Education, and Economics (NAREEE) Advisory Board and its subcommittees. There is one vacancy on the NAREEE Advisory Board; nine vacancies on the National Genetic Resources Advisory Council; three vacancies on the Specialty Crop Committee; and eight vacancies on the Citrus Disease Subcommittee.

DATES: All nomination materials should be submitted in a single, complete package and received or postmarked by April 26, 2019.

ADDRESSES: The nominee's name, resume or CV, completed and signed Form AD–755, and any letters of support must be submitted via one of the following methods: (1) Email (preferred) to *nareeeab@ars.usda.gov;* (2) By fax to 202–720–6199; or (3) By mail delivery service to: REE Advisory Board Office, U.S. Department of Agriculture, Jamie L. Whitten Building, Room 332–A, 1400 Independence Avenue SW, Washington, DC 20250–2255.

FOR FURTHER INFORMATION CONTACT: Michele Esch, Director, National Agricultural Research, Extension, Education, and Economics Advisory Board, 1400 Independence Avenue SW, Room 332A, The Whitten Building, Washington, DC 20250–2255; telephone: 202–720–3684; fax: 202–720–6199; email: *nareeeab@ars.usda.gov.* Committee website: *www.nareeeab.ree.usda.gov.*

SUPPLEMENTARY INFORMATION: *Instructions for Nominations:* Nominations are solicited from organizations, associations, societies, councils, federations, groups, and companies that represent a wide variety of food and agricultural interests throughout the country.

Nominees may be considered for the NAREEE Board and or a subcommittee and may be considered for more than one category and/or subcommittee dependent on the nominee's qualifications. Each nominee must submit a signed form AD–755, ''Advisory Committee Membership Background Information,'' which can be obtained from the contact person below or from: *https://www.ocio.usda.gov/sites/default/files/docs/2012/AD-755%20-%20Approved%20Master%202015.pdf*). A resume or CV should also be submitted. Letters of nomination or support are encouraged. Nomination letters must indicate the specific Board and/or subcommittee AND the category(s) for which the nominee is applying.

Nominations are open to all individuals without regard to race, color, religion, sex, national origin, age, mental or physical handicap, marital status, or sexual orientation. To ensure the recommendation of the Advisory Board takes into account the needs of the diverse groups served by the USDA, membership shall include, to the extent practicable, individuals with demonstrated ability to represent the needs of all racial and ethnic groups, women and men, and persons with disabilities.

Please note, individuals may not serve on more than one USDA Federal Advisory Committee. Individuals appointed to committees to exercise their own individual best judgment on behalf of the government (*e.g.* as Special Government Employees) are ineligible to serve. All nominees will be carefully reviewed for their expertise, leadership, and relevance. All nominees will be vetted before selection.

Appointments to the NAREEE Advisory Board and its subcommittees will be made by the Secretary of Agriculture.

National Agricultural Research, Extension, Education and Economics Advisory Board

The NAREEE Advisory Board was established in 1996 via Section 1408 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3123) to provide advice to the Secretary of Agriculture and land-grant colleges and universities on top priorities and policies for food and agricultural research, education, extension, and economics. The Farm Security and Rural Investment Act of 2002 reduced the number of members and required the Board to also provide advice to the Committee on Agriculture of the House of Representatives; the Committee on Agriculture, Nutrition, and Forestry of the Senate; the Subcommittee on Agriculture, Rural Development, Food and Drug Administration and Related Agencies of the Committee on Appropriations of the House of Representatives; and the Subcommittee on Agriculture, Rural Development and Related Agencies of the Committee on Appropriations of the Senate. Subsequently, Section 7103 of the Agriculture Improvement Act of 2018 further reduced the number of members to 15 and changed the categories of membership for the advisory board. The new membership categories are:

(1) 3 members representing National Farm or Producer Organizations, which may include members:

a. representing farm cooperatives;

b. who are a food animal commodity producer recommended by a national livestock organization;

c. who are a plant commodity producer recommended by a national crop organization; or

d. who are an aquaculture producer recommended by a national aquaculture organization.

(2) 2 members representing Academic or Research Societies, which may include members representing:

a. national food animal science society;

b. national crop, soil, agronomy, horticulture, plant pathology, or weed science society;

c. national food science organization;

d. national human health association; or

e. national nutritional science society.

(3) 5 members representing Agricultural Research, Extension, and Education, which *shall* include:

a. 1 member representing the 1862 land-grant colleges and universities.

b. 1 member representing the 1890 land-grant colleges and universities, including Tuskegee University.

c. 1 member representing the 1994 Equity in Education land-grant institution

d. 1 member representing non-land grant colleges of agriculture (NLGCA) institutions or Hispanic-serving institutions.

e. 1 member representing American colleges of veterinary medicine.

(4) 5 members representing Industry, Consumer, or Rural Interests, including members representing:

a. transportation of food and agricultural products to domestic and foreign markets;

b. food retailing and marketing interests;

c. food and fiber processors;

d. rural economic development interests;

e. a national consumer interest group;

f. a national forestry group;

g. a national conservation or natural resource group;

h. a national social science association;

i. private sector organizations involved in international development; or

j. a national association of agricultural economists.

USDA intends to re-appoint the existing members to the NAREEE Advisory Board and fill one vacancy. Nominations for a three-year appointment for one category are being sought. The one available position to be filled is:

(1) Agricultural Research, Extension and Education.

d. 1 member representing non-land grant colleges of agriculture (NLGCA) institutions or Hispanic-serving institutions.

All nominees will be carefully reviewed for their expertise, leadership, and relevance to the vacant category.

National Genetic Resources Advisory Council

The National Genetic Resources Advisory Council was originally established in March, 1992 via section 1634 (7 U.S.C. 5843) of the Food, Agriculture, Conservation and Trade Act of 1990 to formulate recommendations on actions and policies for the collection, maintenance, and utilization of genetic resources; to make recommendations for coordination of genetic resources plans of several domestic and international organizations; and to advise the Secretary of Agriculture and the National Genetic Resources Program, part of the Agricultural Research Service, of new and innovative approaches to genetic resources conservation. It was subsequently re-established in 2012 as a permanent subcommittee of the NAREEE Advisory Board. The Agriculture Improvement Act of 2018 further expanded the responsibilities of the Council to include recommendations on cultivar development. The bill also increased the number of members from 9 to 13 and changed the membership categories of the National Genetic Resources Advisory Council. The new membership categories are:

(1) 6 of the members shall be appointed from scientific disciplines relevant to the National Genetic Resources Program, including agricultural sciences, economics and policy, environmental sciences, natural resource sciences, health sciences, and nutritional sciences.

(2) 3 of the members shall be appointed from the general public and shall include leaders in fields of public policy, community development, trade, international development, law, or management.

(3) 4 of the members shall be appointed from among individuals with expertise in cultivar development and animal breed development.

(4) 4 of the members shall be appointed from among individuals representing:

a. 1862 land-grant colleges and universities;

b. 1890 land-grant colleges and universities;

c. Hispanic-serving institutions; or

d. 1994 Equity in Education land-grant institutions.

The Council currently has 4 members who will be re-appointed by USDA. Nominations are being sought for the following categories:

- three (3) scientific members;
- two (2) general public members; and
- four (4) public cultivar development and animal breed development.

Note: At least one of these new members must also represent an 1862 land-grant college or university; an 1890 land-grant college or university; a Hispanic-serving institution; or a 1994 Equity in Education land-grant university.

Appointed members will serve for two- or four-years in order to properly stagger the term limits. All nominees will be carefully reviewed for their expertise, leadership, and relevance to a category.

Specialty Crop Committee

The Specialty Crop Committee was created as a subcommittee of the NAREEE Advisory Board in accordance with the Specialty Crops Competitiveness Act of 2004 under Title III, Section 303 of Public Law 108–465. The committee was formulated to study the scope and effectiveness of research, extension, and economics programs affecting the specialty crop industry. The legislation defines ''specialty crops'' as fruits, vegetables, tree nuts, dried fruits and nursery crops (including floriculture). The Agricultural Act of 2014 further expanded the scope of the Specialty Crop Committee to provide advice to the Secretary of Agriculture on the relevancy review process of the Specialty Crop Research Initiative, a grant program of the National Institute of Food and Agriculture.

Members should represent the breadth of the specialty crop industry. Six members of the Specialty Crop Committee represent various disciplines of the specialty crop industry; the remaining members are appointed from the NAREEE Advisory Board. The terms of three members expired on September 30, 2018. The Specialty Crop Committee is soliciting nominations to fill three (3) vacant positions to represent the specialty crop industry. Appointed members will serve for three-years. All nominees will be carefully reviewed for their expertise, leadership, and relevance to a category.

Citrus Disease Subcommittee: The Citrus Disease Subcommittee was established by the Agricultural Act of 2014 (Sec. 7104) as a subcommittee of the NAREEE Advisory Board to advise the Secretary of Agriculture on citrus research, extension, and development needs, engage in regular consultation and collaboration with USDA and other organizations involved in citrus, and provide recommendations for research and extension activities related to citrus disease.

Section 7104 of the Agriculture Improvement Act of 2018 amended the membership of the Citrus Disease Subcommittee to increase the number of members from 9 members to 11. Members of the Citrus Disease Subcommittee must be a producer of citrus with representation from the following States: five members from Arizona or California, five members

from Florida, and one member from Texas. The Citrus Disease Subcommittee is soliciting nominations to fill eight (8) vacant positions:

- Three (3) positions representing Florida.
- Four (4) positions representing California or Arizona.
- One (1) position representing Texas.

Appointed members will serve one-, two-, or three-year terms in order to properly stagger term rotation. All nominees will be carefully reviewed for their expertise, leadership, and relevance to a category.

Done at Washington, DC, this day of March 14th, 2019.

Steve Censky,

Deputy Secretary, USDA.

[FR Doc. 2019–05938 Filed 3–27–19; 8:45 am]

BILLING CODE 3410–03–P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meetings of the New York Advisory Committee

AGENCY: Commission on Civil Rights.

ACTION: Announcement of meetings.

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 New York Advisory Committee to the Commission will convene by conference call at 12:00 p.m. (EST) on: Friday, April 12, 2019. The purpose of the meeting is to discuss Education Funding in New York.

DATES: Friday, April 12, 2019 at 12:00 p.m. EST.

ADDRESSES: Public Call-In Information: Conference call-in number: 1–877–260–1479 and conference ID# 5988481.

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

SUPPLEMENTARY INFORMATION: Interested members of the public may listen to the discussion by calling the following toll-free conference call-in number: 1–877–260–1479 and conference ID# 5988481. Please be advised that before placing them into the conference call, the conference call operator will ask callers to provide their names, their organizational affiliations (if any), and email addresses (so that callers may be notified of future meetings). 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 conference call-in number.

Persons with hearing impairments may also follow the discussion by first calling the Federal Relay Service at 1–800–977–8339 and providing the operator with the toll-free conference call-in number: 1–877–260–1479 and conference ID# 5988481.

Members of the public are invited to make statements during the open comment period of the meetings or submit written comments. The comments must be received in the regional office approximately 30 days after each scheduled meeting. Written comments may be mailed to the Midwest Regional Office, U.S. Commission on Civil Rights, 230 S. Dearborn Street, Suite 2120, Chicago, IL 60604, faxed to (312) 353–8324, or emailed to David Barreras at *dbarreras@usccr.gov.* Persons who desire additional information may contact the Midwest Regional Office at (312) 353–8311.

Records and documents discussed during the meeting will be available for public viewing as they become available at *https://database.faca.gov/committee/meetings.aspx?cid=265;* click the ''Meeting Details'' and ''Documents'' links. Records generated from this meeting may also be inspected and reproduced at the Eastern Regional Office, as they become available, both before and after the meetings. Persons interested in the work of this advisory committee are advised to go to the Commission's website, *www.usccr.gov,* or to contact the Midwest Regional Office at the above phone numbers, email or street address.

Agenda

Friday, April 12, 2019

- Open—Roll Call
- Discussion of Education Funding
- Open Comment
- Adjourn

Dated: March 25, 2019.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2019–05974 Filed 3–27–19; 8:45 am]

BILLING CODE 6335–01–P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Ohio Advisory Committee to the U.S. Commission on Civil Rights

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 Ohio Advisory Committee (Committee) will hold a community forum on Tuesday April 16, 2019, from 11 a.m.–1:30 p.m. EDT for the purpose of hearing public testimony on education funding in the state.

DATES: The meeting will be held on Tuesday April 16, 2019, from 11:00 a.m.–1:30 p.m., EDT.

Location: Double Tree Suites, Columbus Downtown. 55 S. Front Street, Columbus OH, 43215.

Public Call Information: Dial: 855–710–4181, Conference ID: 1339118.

FOR FURTHER INFORMATION CONTACT: Melissa Wojnaroski, DFO, at *mwojnaroski@usccr.gov* or 312–353–8311.

SUPPLEMENTARY INFORMATION: This meeting is free and open to the public. Members of the public may appear in person and participate. Members of the public may also listen to the discussion through the above listed toll free number (audio only). All members of the public will be invited to make a statement as time allows.

For those joining remotely by phone, 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, 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 Unit Office at (312) 353–8311.

Records generated from this meeting may be inspected and reproduced at the Regional Programs Unit 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, Ohio Advisory Committee link. Persons interested in the work of this Committee are also directed to the Commission's website, *http://www.usccr.gov,* or may contact the Regional Programs Unit office at the above email or street address.

Agenda

Welcome and Roll Call
Public Comment: Education Funding in Ohio
Adjournment

Dated: March 24, 2019.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2019–05928 Filed 3–27–19; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

International Trade Administration

Advisory Committee on Supply Chain Competitiveness: Notice of Public Meetings

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

ACTION: Notice of open meetings.

SUMMARY: This notice sets forth the schedule and proposed topics of discussion for public meetings of the Advisory Committee on Supply Chain Competitiveness (Committee).

DATES: The meetings will be held on April 17, 2019, from 12:00 p.m. to 5:00 p.m., and April 18, 2019, from 11:00 a.m. to 2:00 p.m., Eastern Daylight Time (EDT).

ADDRESSES: The meetings on April 17 and 18 will be held at the Seelbach Hilton Hotel, 500 South Fourth Street (Mezzanine C & D), Louisville, Kentucky 40202.

FOR FURTHER INFORMATION CONTACT: Richard Boll, Office of Supply Chain, Professional & Business Services (OSCPBS), International Trade Administration. Phone: (202) 482–1135 or Email: *richard.boll@trade.gov.*

SUPPLEMENTARY INFORMATION:

Background: The Committee was established under the discretionary authority of the Secretary of Commerce and in accordance with the Federal Advisory Committee Act (5 U.S.C. App.). It provides advice to the Secretary of Commerce on the necessary elements of a comprehensive policy approach to supply chain competitiveness and on regulatory policies and programs and investment priorities that affect the competitiveness of U.S. supply chains. For more information about the Committee visit: *http://trade.gov/td/services/oscpb/supplychain/acscc/.*

Matters To Be Considered: Committee members are expected to continue to discuss the major competitiveness-related topics raised at the previous Committee meetings, including trade and competitiveness; freight movement and policy; trade innovation; regulatory issues; finance and infrastructure; and workforce development. The Committee's subcommittees will report on the status of their work regarding these topics. The agenda may change to accommodate other Committee business. The Office of Supply Chain, Professional & Business Services will post the final detailed agendas on its website, *http://trade.gov/td/services/oscpb/supplychain/acscc/,* at least one week prior to the meeting.

The meetings will be open to the public and press on a first-come, first-served basis. Space is limited. The public meetings are physically accessible to people with disabilities. Individuals requiring accommodations, such as sign language interpretation or other ancillary aids, are asked to notify Mr. Richard Boll, at (202) 482–1135 or *richard.boll@trade.gov,* five (5) business days before the meeting.

Interested parties are invited to submit written comments to the Committee at any time before and after the meeting. Parties wishing to submit written comments for consideration by the Committee in advance of this meeting must send them to the Office of Supply Chain, Professional & Business Services, 1401 Constitution Ave NW, Room 11014, Washington, DC 20230, or email to *richard.boll@trade.gov.*

For consideration during the meetings, and to ensure transmission to the Committee prior to the meetings, comments must be received no later than 5:00 p.m. EDT on April 10, 2019. Comments received after April 10, 2019, will be distributed to the Committee, but may not be considered at the meetings. The minutes of the meetings will be posted on the Committee website within 60 days of the meeting.

Dated: March 25, 2019.

Maureen Smith,

Director, Office of Supply Chain.

[FR Doc. 2019–05990 Filed 3–27–19; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

International Trade Administration

Notice of Scope Rulings

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

DATES: Applicable March 28, 2019.

SUMMARY: The Department of Commerce (Commerce) hereby publishes a list of scope rulings and anticircumvention determinations made between October 1, 2017, and December 31, 2017, inclusive. We intend to publish future lists after the close of the next calendar quarter.

FOR FURTHER INFORMATION CONTACT: Brenda E. Brown, AD/CVD Operations, Customs Liaison Unit, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401Constitution Avenue NW, Washington, DC 20230; telephone: 202–482–4735.

SUPPLEMENTARY INFORMATION:

Background

Commerce regulations provide that the Secretary will publish in the **Federal Register** a list of scope rulings on a quarterly basis.[1] Our most recent notification of scope rulings was published on (Thursday, March 14, 2019).[2] This current notice covers all scope rulings and anticircumvention determinations made by Enforcement and Compliance between October 1, 2017, and December 31, 2017, inclusive.

Scope Rulings Made Between October 1, 2017 and December 31, 2017

A–433–812; A–423–812; A–351–847, A–570–047; A–427–828; A–428–844; A–475–834; A–588–875; A–580–877; A–791–822; A–583–858; A–489–828; C–570–048; C–580–888; C–351–848: Certain Carbon and Alloy Steel Cut-to-Length Plate (Cut-to-Length Plate) From Austria, Belgium, Brazil, the People's Republic of China, France, the Federal Republic of Germany, Italy, Japan, the Republic of Korea, the Republic of South Africa, Taiwan, and Turkey

Requestor: PCS Company; Certain preconfigured parts for mold bases used in plastic injection molding machines are not within the scope of the antidumping and countervailing duty orders on cut-to-length plate because the totality of the further processing results in a downstream product that is not cut-to-length plate and is thus not covered by the order; October 11, 2017.

[1] *See* 19 CFR 351.225(o).

[2] *See Notice of Scope Rulings,* 84 FR 9295 (March 14, 2019).

A–201–805: Certain Circular Welded Non-Alloy Steel Pipe From Mexico

Requestor: Productos Laminados de Monterrey S.A. de C.V., Aceros Cuatros Caminos S.A. de C.V., and Prolamsa Inc. (collectively, Prolamsa); Commerce determined that five types of circular welded galvanized tubes produced by Prolamsa are not covered by the scope of the antidumping order on certain circular welded non-alloy steel pipe from Mexico because their outer diameters are neither found within the standard sizes (including tolerances) for standard pipe schedules 10, 40, and 80, nor within the standard sizes (including tolerances) for fence tubing, and they are therefore mechanical tubing, which is excepted from the scope of the order; December 18, 2017.

A–570–814; A–570–910; A–570–930; A–570–956; C–570–911; C–570–931; C–570–957: Carbon Steel Butt-Weld Pipe Fittings; Circular Welded Carbon-Quality Steel Pipe; Circular Welded Austenitic Stainless Steel Pressure Pipe; and Seamless Carbon and Alloy Steel Standard, Line, and Pressure Pipe From the People's Republic of China: Preliminary Scope Ruling SinoStruct Engineered and Manufactured Pipe Spools

Requestor: SinoStruct Proprietary Limited (SinoStruct); Commerce preliminarily found that pipe spools produced by SinoStruct using third country components that are not subject to any AD and CVD orders are outside of the scope of the AD and CVD orders noted above. Additionally, Commerce preliminarily determined that SinoStruct and importers of pipe spools produced by Sinostruct certify that all the components in the pipe spools are not subject to Commerce's AD or CVD orders; December 4, 2017.

A–570–899: Certain Artist Canvas From the People's Republic of China

Requestor: Innovative Creations Inc. (Innovative Creations); Commerce determined that Innovative Creations' exports of artist canvas have the same physical characteristics as products previously determined to be outside of the scope of the Order; specifically, artist canvases that are woven and primed in a third country or third countries before being further processed (*i.e.,* cut, stretched, framed, or packaged) in the People's Republic of China (PRC) and are subsequently exported from the PRC to the United States. Accordingly, Commerce determined that those artist canvas are outside of the scope of the order; October 10, 2017.

A–570–958 and C–570–959: Certain Coated Paper Suitable for High-Quality Print Graphics Using Sheet-Fed Presses From the People's Republic of China

Requester: Greenbrier International, Inc. (Greenbrier); Commerce determined that the neon and white poster board products imported by Greenbrier are not within the scope of the antidumping and countervailing duty orders on certain coated paper suitable for high-quality print graphics using sheet-fed presses because Greenbrier's neon poster board does not fall under the scope language's requirement that the paper and paperboard be coated with inorganic material. Additionally, Greenbrier's neon and white poster board are not intended for the commercial print industry, which is outside the scope language's requirement that the paper and paperboard be specifically suitable for high quality print graphics using sheet-fed presses, namely for the commercial print market; October 30, 2017.

A–570–822: Certain Helical Spring Lock Washers From the People's Republic of China

Requestor: MacLean Power, L.L.C. (MPS); certain component part(s) of MPS' pole line hardware that are produced in the People's Republic of China (PRC) and imported by MPS are within the scope of the antidumping duty order on certain helical spring lock washers (HSLWs) from the PRC. Commerce finds that the component part of the pole line hardware that constitute subject merchandise (*viz.,* the HSLWs) are covered by the order when examined individually and in their own right because these component part meet the language of the antidumping duty order. Also, there is no basis in the language of the order to exclude them when HSLWs are incorporated into pole line hardware; October 05, 2017.

A–570–901: Certain Lined Paper Products From Republic of China

Requestor: Neenah Paper Inc., (Neenah); Commerce determined that spine-stitched journals made of U.S.-origin paper imported by Neenah were substantially transformed into subject merchandise due to the production processes undertaken in China and, thus, were within the scope of the order; December 15, 2017.

A–570–909: Certain Steel Nails From the People's Republic of China

Requestor: Fastenal Company Purchasing. The zinc, nylon, and steel anchors, *i.e.,* two piece nails, included in the scope request are covered by the scope of the antidumping duty order on certain steel nails from the People's Republic of China because they are within the scope of the Order and are not covered by any of the exclusions listed in the scope of the Order. More specifically, we determined that the steel ''pin'' used as part of an anchor is, in fact, a steel nail, due to their identical description and function, and that separating the steel nail from the zinc, nylon or steel anchor would render the product unusable. Moreover, the International Trade Commission specifically listed a masonry anchor (*e.g.,* a zinc anchor and a steel nail) as an example of a two-piece nail; October 13, 2017.

A–570–909: Certain Steel Nails From the People's Republic of China

Requestor: Simpson Strong-Tie Company (Simpson); Countersunk Split Drive (CSD); and Duplex Split Drive (DSD); Commerce determined that anchors are covered by the scope of the antidumping duty order on steel nails from the People's Republic of China because the description of the split drive anchors fits the plain description of the scope covering nails; December 1, 2017.

A–570–967 and C–570–968: Telescoping Aluminum Pool Poles From the People's Republic of China

Requestor: Westbay LLC; The 360 model numbers included in the nine-model series of telescoping pool poles included in the scope request are not covered by the scope of the antidumping and countervailing duty orders on aluminum extrusions from the People's Republic of China because the extruded aluminum components are parts of a fully completed product, which also includes non-aluminum pieces; November 6, 2017.

Interested parties are invited to comment on the completeness of this list of completed scope inquiries. Any comments should be submitted to the Deputy Assistant Secretary for AD/CVD Operations, Enforcement and Compliance, International Trade Administration, 1401 Constitution Avenue NW, APO/Dockets Unit, Room 18022, Washington, DC 20230.

This notice is published in accordance with 19 CFR 351.225(o).

Dated: March 25, 2019.

James Maeder,

Associate Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations performing the duties of Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2019–05958 Filed 3–27–19; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–570–083]

Certain Steel Wheels From the People's Republic of China: Final Affirmative Countervailing Duty Determination

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

SUMMARY: The Department of Commerce (Commerce) determines that producers and exporters of certain steel wheels from the People's Republic of China (China) received countervailable subsidies as provided in section 705 of the Tariff Act of 1930, as amended (the Act) during the period of investigation (POI), January 1, 2017, through December 31, 2017.

DATES: Applicable March 28, 2019.

FOR FURTHER INFORMATION CONTACT: Chien-Min Yang or Myrna Lobo, 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) 482–5484 or (202) 482–2371, respectively.

SUPPLEMENTARY INFORMATION:

Background

On August 31, 2018, Commerce published in the **Federal Register** the preliminary affirmative determination of this investigation.[1] A summary of the events that occurred since Commerce published the *Preliminary Determination,* as well as a full discussion of the issues raised by parties for this final determination, may be found in the Issues and Decision Memorandum.[2] A list of topics included in the Issues and Decision Memorandum is included as Appendix II to this notice.

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

Period of Investigation

The POI is January 1, 2017, through December 31, 2017.

Scope Comments

In accordance with the preamble to Commerce's regulations,[3] the *Initiation Notice* set aside a period of time for parties to raise issues regarding product coverage (*i.e.,* scope), and states ''if a party subsequently finds that additional factual information pertaining to the scope of the investigation may be relevant, the party may contact Commerce and request permission to submit the additional information.''[4] No issue was raised regarding the scope as it appeared in the *Initiation Notice* during the time period provided for scope comments. On December 11, 2018, the petitioners[5] requested that Commerce permit them to submit additional factual information for the final scope determination to ensure any orders resulting from this investigation would effectively provide relief from unfairly-traded imports.[6] In response, Commerce provided the petitioners an opportunity to submit new factual information and comments relating the scope. Commerce also provided interested parties an opportunity to submit comments and factual information intended to rebut, clarify or correct the petitioners' new factual information.[7] On December 19, 2018, the petitioners submitted comments on the scope of the investigation.[8] On February 4, 2019, Xiamen Sunrise[9] and Zhejiang Jingu Company Limited (Zhejiang Jingu) each submitted rebuttal comments pertaining to the petitioners' scope comments.[10] After considering comments and supporting factual information, Commerce is modifying the scope language as it appeared in the *Initiation Notice.* For further discussion, *see* Issues and Decision Memorandum.

Scope of the Investigation

The merchandise covered by this investigation is certain steel wheels from China. For a complete description of the scope of this investigation, *see* Appendix I.

Use of Adverse Facts Available (AFA)

Commerce relied on ''facts otherwise available,'' including adverse facts available (AFA), for several findings in the *Preliminary Determination.* For this final determination, we are basing the countervailing duty (CVD) rates for Xiamen Sunrise Wheel Group Co., Ltd. (Xiamen Sunrise)[11] and Zhejiang Jingu Company Limited (Zhejiang Jingu)[12] on facts otherwise available, with an adverse inference, pursuant to sections 776(a) and (b) of the Act. For a full discussion of AFA, *see* the Issues and Decision Memorandum.[13]

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[1] *See Certain Steel Wheels from the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Determination with Final Antidumping Duty Determination,* 83 FR 44673 (August 31, 2018) (*Preliminary Determination*) and accompanying Preliminary Decision Memorandum.

[2] *See* Memorandum, ''Issues and Decision Memorandum for the Final Determination in the Countervailing Duty Investigation of Certain Steel Wheels from the People's Republic of China,'' dated concurrently with this determination and hereby adopted by this notice (Issues and Decision Memorandum).

[3] *See Antidumping Duties; Countervailing Duties, Final Rule,* 62 FR 27296, 27323 (May 19, 1997).

[4] *See Certain Steel Wheels from the People's Republic of China: Initiation of Countervailing Duty Investigation,* 83 FR 17794 (April 24, 2018) (*Initiation Notice*).

[5] The petitioners are Accuride Corporation and Maxion Wheels Akron LLC (collectively, the petitioners).

[6] *See* Letter from the petitioners, ''Certain Steel Wheels from China (C–570–083)—Petitioners' Request to Submit Additional Factual Information Relevant to Scope,'' dated December 11, 2018.

[7] *See* Memorandum, ''Certain Steel Wheels from the People's Republic of China: Opportunity to Submit Factual Information and Comments Pertaining to the Scope of Investigations,'' dated December 14, 2018.

[8] *See* Petitioners' Letter, ''Certain Steel Wheels from the People's Republic of China (A–570–082, C–570–083)—Petitioners' Request for Clarification of the Scope of the Investigations and Submission of Additional Factual Information Relevant to Scope,'' dated December 19, 2018 (Petitioners' Scope Comments).

[9] Xiamen Sunrise Wheel Group Co., Ltd. (''Xiamen Sunrise''), Xiamen Sunrise Wheel Co., Ltd. (''Sunrise Wheel''), Xiamen Sunrise Metal Co., Ltd. (''Sunrise Metal''), Sichuan Sunrise Metal Industry Co., Ltd. (''Sichuan Sunrise''), and Xiamen Topu Import & Export Co., Ltd. (''Topu'') (collectively, ''Xiamen Sunrise'').

[10] *See* Xiamen Sunrise's Letter, ''Certain Steel Wheels from the People's Republic of China: Response to Petitioners' Request for Clarification of the Scope of the Investigations and Submission of Additional Factual Information Relevant to Scope,'' dated February 4, 2019 (Xiamen Sunrise's Scope Rebuttal); *see also* Zhejiang Jingu's Letter, ''Antidumping and Countervailing Duty Investigations of Certain Steel Wheels from the People's Republic of China: Response to Petitioners' Request for Clarification of Scope of Investigations,'' dated February 4, 2019 (Zhejiang Jingu's Scope Rebuttal).

[11] As discussed in the Issues and Decision Memorandum, Commerce has assigned Xiamen Sunrise Wheel Group Co., Ltd.'s rate to each of the entities named as cross-owned in its affiliation questionnaire response: Xiamen Sunrise Wheel Co., Ltd., Xiamen Sunrise Metal Co., Ltd., Xiamen Topu Import & Export Co., Ltd. and Sichuan Sunrise Metal Industry Co., Ltd.

[12] As discussed in the Issues and Decision Memorandum, Commerce has assigned Zhejiang Jingu Company Limited's rate to each of the entities named as cross-owned in its affiliation questionnaire response: Shanghai Yata Industry Company Limited; Shangdong Jingu Auto Parts Co., Ltd.; Chengdu Jingu Wheel Co., Ltd.; and An'Gang Jingu (Hangzhou) Metal Materials Co., Ltd.

[13] *See* Issues and Decision Memorandum.

Affirmative Determination of Critical Circumstances, in Part

We find that the Government of China bestowed countervailable subsides inconsistent with the Subsidies and Countervailing Measures Agreement (SCM) to steel wheel producers pursuant to section 705(a)(2)(A) of the Act. Furthermore, we also find that there have been massive imports of the subject merchandise over a relatively short period pursuant to section 705(a)(2)(B) of the Act and section 776(a)–(b) of the Act with respect to Xiamen Sunrise and Zhejiang Jingu. Therefore, Commerce has determined that critical circumstances exist with respect to Xiamen Sunrise and Zhejiang Jingu, and that critical circumstances do not exist with respect to all other producers or exporters of steel wheels from China. For further information on Commerce's critical circumstances analysis, *see* the Issues and Decision Memorandum.[14]

All-Others Rate

In accordance with section 705(c)(5)(A) of the Act, Commerce shall determine an estimated all-others rate for companies not individually examined. Generally, under section 705(c)(5)(A)(i) of the Act, this rate shall be an amount equal to the weighted average of the estimated subsidy rates established for those companies individually examined, excluding any zero and *de minimis* rates and any rates based entirely on AFA under section 776 of the Act. However, section 705(c)(5)(A)(ii) of the Act provides that, where all countervailable subsidy rates established for the mandatory respondents are zero, *de minimis,* or based entirely on facts available, Commerce may use ''any reasonable method'' for assigning an all-others rate, including ''averaging the estimated weighted-average countervailable subsidy rates determined for the exporters and producers individually investigated.'' In this investigation, all rates for the individually-investigated respondents are based entirely on facts available, pursuant to section 776 of the Act. Accordingly, we find under ''any reasonable method'' to rely on a simple average of the total AFA rates computed for Xiamen Sunrise and Zhejiang Jingu as the ''all-others'' rate in this final determination, particularly as there is no other information on the record that can be used to determine the all-others rate. For further information on the all-others rate, *see* the Issues and Decision Memorandum.[15]

Analysis of Comments Received

A list of issues which the petitioners raised in its case brief, as well as in the petitioners' scope comments,[16] along with Sunrise's and Zhejiang Jingu's rebuttal comments,[17] to which we responded in the Issues and Decision Memorandum, is attached to this notice at Appendix II.

Final Determination

In accordance with section 705(c)(1)(B)(i)(I) of the Act, we established individual estimated countervailable subsidy rates for Sunrise Wheel Group Co., Ltd. and its cross-owned affiliates (Xiamen Sunrise), and Zhejiang Jingu Company Limited and its cross-owned affiliates (Zhejiang Jingu).

Company	Subsidy rate (percent)
Xiamen Sunrise Wheel Group Co., Ltd[18]	457.10
Zhejiang Jingu Company Limited[19]	457.10
All-Others	457.10

Disclosure

Normally, Commerce discloses to interested parties the calculations performed in connection with its final determination within five days of its public announcement or, if there is no public announcement, within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b). However, in this investigation, no individually examined companies participated in the investigation, and Commerce has applied total AFA to all producers and exporters, including the China-wide entity, in accordance with section 776 of the Act. The applied AFA rates applied to each program are discussed in the Issues and Decision Memorandum at Appendix I. Therefore, there are no calculations to disclose to interested parties.

Continuation of Suspension of Liquidation

As a result of our *Preliminary Determination,* and pursuant to sections 703(d)(1)(B) and (2) of the Act, we instructed U.S. Customs and Border Protection (CBP) to suspend liquidation of all entries of merchandise under consideration from China that were entered or withdrawn from warehouse, for consumption, on or after August 31, 2018, the date of publication of the *Preliminary Determination* in the **Federal Register**. In accordance with section 703(d) of the Act, we issued instructions to CBP to discontinue the suspension of liquidation for CVD purposes for subject merchandise entered, or withdrawn from warehouse, on or after December 29, 2018, but to continue the suspension of liquidation of all entries from August 31, 2018, through December 28, 2018.

Further, because Commerce has determined that critical circumstances exist with respect to Xiamen Sunrise and Zhejiang Jingu, we will instruct CBP to suspend liquidation of entries of subject merchandise entered, or withdrawn from warehouse, for consumption on or after June 2, 2018, which is 90 days prior to the date of publication of the *Preliminary Determination* in the **Federal Register**.

If the U.S. International Trade Commission (the ITC) issues a final affirmative injury determination, we will issue a CVD order and will reinstate the suspension of liquidation under section 706(a) of the Act and will require a cash deposit of estimated CVDs for such entries of subject merchandise in the amounts indicated above. If the ITC determines that material injury, or threat of material injury, does not exist, this proceeding will be terminated, and all estimated duties deposited or securities posted as a result of the suspension of liquidation will be refunded or canceled.

International Trade Commission Notification

In accordance with section 705(d) of the Act, we will notify the U.S. International Trade Commission (ITC) of the final affirmative determination of countervailable subsidies. Because the final determination in this proceeding is affirmative, in accordance with section 705(b) of the Act, the ITC will make its final determination as to whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports of certain plastic ribbon from China no later than 45 days after our final determination. If the ITC determines

[14] *See* Issues and Decision Memorandum at Comment 4.

[15] *Id.* at Comment 3.

[16] *See* Petitioners' Scope Comments.

[17] *See* Sunrise's Scope Rebuttal; *see also* Zhejiang Jingu's Scope Rebuttal.

[18] Commerce assigned Xiamen Sunrise Wheel Group Co., Ltd.'s rate to each of the entities named as cross-owned in its affiliation questionnaire response: Xiamen Sunrise Wheel Co., Ltd., Xiamen Sunrise Metal Co., Ltd., Xiamen Topu Import & Export Co., Ltd. and Sichuan Sunrise Metal Industry Co., Ltd.

[19] Commerce assigned Zhejiang Jingu Company Limited's rate to each of the entities named as cross-owned in its affiliation questionnaire response: Shanghai Yata Industry Company Limited; Shangdong Jingu Auto Parts Co., Ltd.; Chengdu Jingu Wheel Co., Ltd.; and An'Gang Jingu (Hangzhou) Metal Materials Co., Ltd.

that material injury or threat of material injury does not exist, the proceeding will be terminated, and all cash deposits will be refunded. If the ITC determines that such injury does exist, Commerce will issue a CVD order directing CBP to assess, upon further instruction by Commerce, countervailing duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation, as discussed above in the ''Continuation of Suspension of Liquidation'' section.

Notification Regarding Administrative Protective Orders

This notice will serve as a reminder to the parties subject to administrative protective order (APO) of their responsibility concerning the disposition of propriety information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

Notification to Interested Parties

This determination is issued and published in accordance with sections 705(d) and 777(i)(1) of the Act and 19 CFR 351.210(c).

Dated: March 25, 2019.

Gary Taverman,

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

Appendix I

Scope of the Investigation

The merchandise subject to the investigation is certain on-the-road steel wheels, discs, and rims for tubeless tires, with a nominal rim diameter of 22.5 inches and 24.5 inches, regardless of width. Certain on-the-road steel wheels with a nominal wheel diameter of 22.5 inches and 24.5 inches are generally for Class 6, 7, and 8 commercial vehicles (as classified by the Federal Highway Administration Gross Vehicle Weight Rating system), including tractors, semi-trailers, dump trucks, garbage trucks, concrete mixers, and buses, and are the current standard wheel diameters for such applications. The standard widths of certain on-the-road steel wheels are 7.5 inches, 8.25 inches, and 9.0 inches, but all certain on-the-road steel wheels, regardless of width, are covered by the scope. While 22.5 inches and 24.5 inches are standard wheel sizes used by Class 6, 7, and 8 commercial vehicles, the scope covers sizes that may be adopted in the future for Class 6, 7, and 8 commercial vehicles.

The scope includes certain on-the-road steel wheels with either a ''hub-piloted'' or ''stud-piloted'' mounting configuration, and includes rims and discs for such wheels, whether imported as an assembly or separately. The scope includes certain on-the-road steel wheels, discs, and rims, of carbon and/or alloy steel composition, whether cladded or not cladded, whether finished or not finished, and whether coated or uncoated. All on-the-road wheels sold in the United States are subject to the requirements of the National Highway Traffic Safety Administration and bear markings, such as the ''DOT'' symbol, indicating compliance with applicable motor vehicle standards. *See* 49 CFR 571.120. The scope includes certain on-the-road steel wheels imported with or without the required markings. Certain on-the-road steel wheels imported as an assembly with a tire mounted on the wheel and/or with a valve stem attached are included. However, if the certain on-the-road steel wheel is imported as an assembly with a tire mounted on the wheel and/or with a valve stem attached, the certain on- the-road steel wheel is covered by the scope, but the tire and/or valve stem is not covered by the scope.

The scope includes rims and discs that have been further processed in a third country, including, but not limited to, the welding and painting of rims and discs from China to form a steel wheel, or any other processing that would not otherwise remove the merchandise from the scope of the proceeding if performed in China.

Excluded from the scope are:

(1) Steel wheels for tube-type tires that require a removable side ring;

(2) aluminum wheels;

(3) wheels where steel represents less than fifty percent of the product by weight; and

(4) steel wheels that do not meet National Highway Traffic Safety Administration requirements, other than the rim marking requirements found in 49 CFR 571.120S5.2.

Imports of the subject merchandise are currently classified under the following Harmonized Tariff Schedule of the United States (HTSUS) subheadings: 8708.70.4530, 8708.70.4560, 8708.70.6030, 8708.70.6060, 8716.90.5045, and 8716.90.5059. Merchandise meeting the scope description may also enter under the following HTSUS subheadings: 4011.20.1015, 4011.20.5020, and 8708.99.4850. While HTSUS subheadings are provided for convenience and customs purposes, the written description of the subject merchandise is dispositive.

Appendix II

List of Topics Discussed in the Issues and Decision Memorandum

I. Summary
II. Background
III. Period of Investigation
IV. Scope of the Investigation
V. Use of Facts Otherwise Available and Adverse Inferences
VI. Affirmative Determination of Critical Circumstances, in Part
VII. Discussion of the Issues
Comment 1: Whether To Clarify the Scope to Include Steel Wheels Processed in A Third Country Using Rims and Discs From China
Comment 2: Whether To Revise the Total AFA Rate Applied to Xiamen Sunrise and Zhejiang Jingu
Comment 3: Calculation of the ''All-Others'' Rate
Comment 4: Whether Critical Circumstances Exist.
VIII. Recommendation
Appendix I

[FR Doc. 2019–05956 Filed 3–27–19; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–082]

Certain Steel Wheels From the People's Republic of China: Final Determination of Sales at Less-Than-Fair-Value

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

SUMMARY: The Department of Commerce (Commerce) determines that imports of certain steel wheels (steel wheels) from the People's Republic of China (China) are being, or are likely to be, sold in the United States at less than fair value (LTFV), as provided in section 735 of the Tariff Act of 1930, as amended (the Act) during the period of investigation (POI), July 1, 2017, through December 31, 2017.

DATES: Applicable March 28, 2019.

FOR FURTHER INFORMATION CONTACT: Lingjun Wang, 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) 482–2316.

SUPPLEMENTARY INFORMATION:

Background

On October 30, 2018, Commerce published in the **Federal Register** the preliminary affirmative determination of sales at LTFV of steel wheels from China.[1] A summary of the events that occurred since Commerce published the *Preliminary Determination,* as well as a full discussion of the issues raised by the parties for this final determination, may be found in the Issues and Decision Memorandum.[2]

[1] *See Certain Steel Wheels from the People's Republic of China: Preliminary Determination of Sales at Less-Than-Fair-Value,* 83 FR 54568 (October 30, 2018) (*Preliminary Determination*) and accompanying Preliminary Decision Memorandum.

[2] *See* Memorandum, ''Issues and Decision Memorandum for the Final Determination of Sales

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

Period of Investigation

The POI is July 1, 2017, through December 31, 2017.

Scope Comments

In accordance with the preamble to Commerce's regulations,[3] the *Initiation Notice* set aside a period of time for parties to raise issues regarding product coverage (*i.e.,* scope), and states that ''if a party subsequently finds that additional factual information pertaining to the scope of the investigation may be relevant, the party may contact Commerce and request permission to submit the additional information.'' [4] No issue was raised regarding the scope as it appeared in the *Initiation Notice* during the period provided for scope comments. On December 11, 2018, the petitioners [5] requested that Commerce permit them to submit additional factual information for the final scope determination to ensure any orders resulting from this investigation would effectively provide relief from unfairly-traded imports.[6] In response, Commerce provided the petitioners an opportunity to submit new factual information and comments relating to the scope. Commerce also provided interested parties an opportunity to submit comments and factual information intended to rebut, clarify or correct the petitioners' new factual information.[7] On December 19, 2018, the petitioners submitted comments on the scope of the investigation.[8] On February 4, 2019, Sunrise [9] and Zhejiang Jingu Company Limited (Zhejiang Jingu) each submitted rebuttal comments pertaining to the petitioners' scope comments.[10] After considering comments and supporting factual information, Commerce is modifying the scope language as it appeared in the *Initiation Notice.* For further discussion, *see* Issues and Decision Memorandum.

Scope of the Investigation

The products covered by this investigation are steel wheels from China. For a complete description of the scope of this investigation, *see* Appendix I.

Affirmative Determination of Critical Circumstances

We find that critical circumstances exist with regard to the China-wide entity pursuant to section 735(a)(3) of the Act. Specifically, we determine that there is a reasonable basis to believe or suspect that importers knew, or should have known, that the subject merchandise was being sold at less than fair value, and that those sales were likely to cause material injury in accordance with section 735(a)(3)(A)(ii) of the Act. Furthermore, we also find that there have been massive imports of the subject merchandise over a relatively short period pursuant to sections 735(a)(3)(B) and 776(a)–(b) of the Act. For further discussion, *see* the Issues and Decision Memorandum.

Analysis of Comments Received

A list of issues which the petitioners raised in its case brief, as well as in the petitioners' scope comments,[11] along with Sunrise's and Zhejiang Jingu's rebuttal comments,[12] to which we responded in the Issues and Decision Memorandum, is attached to this notice at Appendix II.

Final Determination

The final, estimated weighted-average dumping margin is as follows:

TABLE 2 TO (D)(3)(II)(B)(*1*)(*i*)

Producer	Exporter	Estimated weighted-average dumping margin (percent)	Estimated weighted-average dumping margin adjusted for subsidy offset(s) (percent)
China-Wide Entity	China-Wide Entity	231.70	231.08

Disclosure

Normally, Commerce discloses to interested parties the calculations performed in connection with its final determination within five days of its public announcement or, if there is no public announcement, within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b). However, in this investigation, no individually examined companies participated in the investigation, and Commerce has applied total AFA to all producers and exporters, including the China-wide entity, in accordance with

at Less-Than-Fair-Value Investigation of Certain Steel Wheels from the People's Republic of China,'' dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

[3] *See Antidumping Duties; Countervailing Duties, Final Rule,* 62 FR 27296, 27323 (May 19, 1997).

[4] *See Certain Steel Wheels from the People's Republic of China: Initiation of Less-Than-Fair-Value Investigation,* 83 FR 17798 (April 24, 2018) (*Initiation Notice*).

[5] The petitioners are Accuride Corporation and Maxion Wheels Akron LLC (collectively, the petitioners).

[6] *See* Petitioners' Letter, ''Certain Steel Wheels from China (A–570–082)—Petitioners' Request to Submit Additional Factual Information Relevant to Scope,'' dated December 11, 2018.

[7] *See* Memorandum, ''Certain Steel Wheels from the People's Republic of China: Opportunity to Submit Factual Information and Comments Pertaining to the Scope of Investigations,'' dated December 14, 2018.

[8] *See* Petitioners' Letter, ''Certain Steel Wheels from the People's Republic of China (A–570–082, C–570–083)—Petitioners' Request for Clarification of the Scope of the Investigations and Submission of Additional Factual Information Relevant to Scope,'' dated December 19, 2018 (Petitioners' Scope Comments).

[9] Xiamen Sunrise Wheel Group Co., Ltd. (''Xiamen Sunrise''), Xiamen Sunrise Wheel Co., Ltd. (''Sunrise Wheel''), Xiamen Sunrise Metal Co., Ltd. (''Sunrise Metal''), Sichuan Sunrise Metal Industry Co., Ltd. (''Sichuan Sunrise''), and Xiamen Topu Import & Export Co., Ltd. (''Topu'') (collectively, ''Sunrise'')

[10] *See* Sunrise's Letter, ''Certain Steel Wheels from the People's Republic of China: Response to Petitioners' Request for Clarification of the Scope of the Investigations and Submission of Additional Factual Information Relevant to Scope,'' dated February 4, 2019 (Sunrise's Scope Rebuttal); *see also* Zhejiang Jingu's Letter, ''Antidumping and Countervailing Duty Investigations of Certain Steel Wheels from the People's Republic of China: Response to Petitioners' Request for Clarification of Scope of Investigations,'' dated February 4, 2019 (Zhejiang Jingu's Scope Rebuttal).

[11] *See* Petitioners' Scope Comments.

[12] *See* Sunrise's Scope Rebuttal; *see also* Zhejiang Jingu's Scope Rebuttal.

section 776 of the Act. The applied AFA rate continues to be based solely on the petition, and, therefore, there are no calculations to disclose to interested parties.

Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, we will instruct U.S. Customs and Border Protection (CBP) to continue to suspend liquidation of all imports of the merchandise, as described in Appendix I of this notice, that were entered or withdrawn from warehouse, for consumption on or after October 30, 2018, the date that the *Preliminary Determination* was published.

Section 735(c)(4) of the Act provides that, given an affirmative final determination of critical circumstances, any suspension of liquidation shall apply to unliquidated entries of subject merchandise entered, or withdrawn from warehouse, for consumption on or after August 1, 2018, which is 90 days before the date on which the suspension of liquidation was first ordered. As discussed above and in more detail in the Issues and Decision Memorandum, Commerce finds that critical circumstances exist for imports of subject merchandise produced or exported by the China-wide entity. In accordance with section 733(c)(4) of the Act, the suspension of liquidation shall also apply to unliquidated entries of shipments of subject merchandise from the China-wide entity that were entered, or withdrawn from warehouse from August 1, 2018, up to October 30, 2018.

Further, pursuant to section 735(c)(1)(B)(ii) of the Act, Commerce will instruct CBP to collect a cash deposit as follows: (1) The rate for the exporters and producers listed in the chart above will be equal to the estimated weighted-average dumping margin that we have determined in this final determination; (2) for all Chinese exporters of subject merchandise which have not received their own rate, the cash-deposit rate will be equal to the estimated weighted-average dumping margin for the China-wide entity; and (3) for all non-Chinese exporters of subject merchandise which have not received their own rate, the cash-deposit rate will be equal to the rate applicable to the Chinese exporter and producer combination that supplied that non-Chinese exporter. Commerce normally adjusts the estimated weighted-average dumping margin by the amount of export subsidies countervailed in a companion countervailing duty (CVD) proceeding when the CVD measures are in effect. Accordingly, where Commerce made an affirmative determination for countervailable subsidies that are export contingent,[13] Commerce has offset the estimated weighted-average dumping margin by the appropriate CVD rate(s). Any such adjusted cash deposit rates may be found in the ''Final Determination Margin'' section, above. These suspension of liquidation instructions will remain in effect until further notice.

International Trade Commission Notification

In accordance with section 735(d) of the Act, we will notify the U.S. International Trade Commission (ITC) of the final affirmative determination of sales at LTFV. Because the final determination in this proceeding is affirmative, in accordance with section 735(b)(2) of the Act, the ITC will make its final determination as to whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports of subject merchandise no later than 45 days after this final determination. If the ITC determines that material injury, or threat of material injury, does not exist, the proceeding will be terminated, and all cash deposits will be refunded. If the ITC determines that such injury does exist, Commerce will issue an antidumping duty order directing CBP to assess, upon further instruction by Commerce, antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

Notification Regarding Administrative Protective Orders

This notice will serve as the only reminder to parties subject to an administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

[13] In the CVD final determination, based on AFA, we found the ''Foreign Trade Development Fund Program Grants'' program to be inconsistent with the Subsidies Agreement pursuant to section 705(a)(2)(A) of the Act. *See Certain Steel Wheels from the People's Republic of China: Final Affirmative Countervailing Duty Determination and Affirmative Determination of Critical Circumstances, in Part,* and accompanying Issues and Decision Memorandum, dated concurrently with this AD final determination. The AFA rate applied to that program was 0.62 percent.

Notification to Interested Parties

This determination is issued and published in accordance with sections 735(d) and 777(i)(1) of the Act, and 19 CFR 351.210(c).

Dated: March 25, 2019.

Gary Taverman,

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

Appendix I

Scope of the Investigation

The merchandise subject to the investigation is certain on-the-road steel wheels, discs, and rims for tubeless tires, with a nominal rim diameter of 22.5 inches and 24.5 inches, regardless of width. Certain on-the-road steel wheels with a nominal wheel diameter of 22.5 inches and 24.5 inches are generally for Class 6, 7, and 8 commercial vehicles (as classified by the Federal Highway Administration Gross Vehicle Weight Rating system), including tractors, semi-trailers, dump trucks, garbage trucks, concrete mixers, and buses, and are the current standard wheel diameters for such applications. The standard widths of certain on-the-road steel wheels are 7.5 inches, 8.25 inches, and 9.0 inches, but all certain on-the-road steel wheels, regardless of width, are covered by the scope. While 22.5 inches and 24.5 inches are standard wheel sizes used by Class 6, 7, and 8 commercial vehicles, the scope covers sizes that may be adopted in the future for Class 6, 7, and 8 commercial vehicles.

The scope includes certain on-the-road steel wheels with either a ''hub-piloted'' or ''stud-piloted'' mounting configuration, and includes rims and discs for such wheels, whether imported as an assembly or separately. The scope includes certain on-the-road steel wheels, discs, and rims, of carbon and/or alloy steel composition, whether cladded or not cladded, whether finished or not finished, and whether coated or uncoated. All on-the-road wheels sold in the United States are subject to the requirements of the National Highway Traffic Safety Administration and bear markings, such as the ''DOT'' symbol, indicating compliance with applicable motor vehicle standards. *See* 49 CFR 571.120. The scope includes certain on-the-road steel wheels imported with or without the required markings. Certain on-the-road steel wheels imported as an assembly with a tire mounted on the wheel and/or with a valve stem attached are included. However, if the certain on-the-road steel wheel is imported as an assembly with a tire mounted on the wheel and/or with a valve stem attached, the certain on-the-road steel wheel is covered by the scope, but the tire and/or valve stem is not covered by the scope.

The scope includes rims and discs that have been further processed in a third country, including, but not limited to, the welding and painting of rims and discs from China to form a steel wheel, or any other processing that would not otherwise remove

the merchandise from the scope of the proceeding if performed in China.

Excluded from the scope are:

(1) Steel wheels for tube-type tires that require a removable side ring;

(2) aluminum wheels;

(3) wheels where steel represents less than fifty percent of the product by weight; and

(4) steel wheels that do not meet National Highway Traffic Safety Administration requirements, other than the rim marking requirements found in 49 CFR 571.120S5.2.

Imports of the subject merchandise are currently classified under the following Harmonized Tariff Schedule of the United States (HTSUS) subheadings: 8708.70.4530, 8708.70.4560, 8708.70.6030, 8708.70.6060, 8716.90.5045, and 8716.90.5059. Merchandise meeting the scope description may also enter under the following HTSUS subheadings: 4011.20.1015, 4011.20.5020, and 8708.99.4850. While HTSUS subheadings are provided for convenience and customs purposes, the written description of the subject merchandise is dispositive.

Appendix II

List of Topics Discussed in the Issues and Decision Memorandum

I. Summary
II. Background
III. Period of Investigation
IV. Scope of the Investigation
V. Use of Facts Otherwise Available and Adverse Inferences
VI. Affirmative Determination of Critical Circumstances
VII. Discussion of Issues
  Comment 1: Scope Clarification for Rims and Discs Processed in a Third Country
  Comment 2: Critical Circumstances
  Comment 3: Application of Adverse Facts Available
  Comment 4: Separate Rate Status for CIMAC
VIII. Recommendation

[FR Doc. 2019–05957 Filed 3–27–19; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–580–879]

Certain Corrosion-Resistant Steel Products From the Republic of Korea: Final Results and Partial Rescission of Countervailing Duty Administrative Review; 2015–2016

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

SUMMARY: The Department of Commerce (Commerce) determines that Hyundai Steel Company (Hyundai Steel), Dongbu Steel Co., Ltd/Dongbu Incheon Steel Co., Ltd. (Dongbu), producers and/or exporters of certain corrosion-resistant steel products (CORE) from the Republic of Korea (Korea), received countervailable subsidies during the period of review (POR) November 6, 2015, through December 31, 2016. Commerce is also rescinding the review with respect to Mitsubishi International Corporation.

DATES: Applicable March 28, 2019.

FOR FURTHER INFORMATION CONTACT: Myrna Lobo at 202–482–2371 or Jun Jack Zhao at 202–482–1396, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Background

Commerce published the *Preliminary Results* of on August 10, 2018.[1] For a history of events that occurred since the *Preliminary Results, see* the Issues and Decision Memorandum.[2]

On December 6, 2018, we postponed the final results of this review until February 6, 2019. As a result of the partial government shutdown, the deadline for the final results of this review was revised to March 18, 2019.[3]

Based on an analysis of the comments received and information received from the Government of Korea (GOK) after the *Preliminary Results,* Commerce has revised its calculations for Hyundai Steel. Commerce did not make any changes to the subsidy rates determined for Dongbu. The final subsidy rates are listed in the ''Final Results of Administrative Review'' section, below.

Scope of the Order

The products covered by this order are certain corrosion-resistant steel products. For a complete description of the scope of this order, *see* attachment to the Issues and Decision Memorandum.

Analysis of Comments Received

All issues raised in interested parties' case briefs are addressed in the Issues and Decision Memorandum. The issues are identified in the Appendix to this notice. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *http://access.trade.gov* and to all parties in the Central Records Unit, room B8024 of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at *http://enforcement.trade.gov/frn/index.html.* The signed Issues and Decision Memorandum and the electronic version of the Issues and Decision Memorandum are identical in content.

Changes Since the Preliminary Results

Based on the comments received from interested parties and information received from the GOK after the *Preliminary Results,* we made changes to the net subsidy rates calculated for Hyundai Steel. We did not make any changes to the net subsidy rates calculated for Dongbu. For a discussion of these issues, *see* the Issues and Decision Memorandum.

Methodology

Commerce conducted this review in accordance with section 751(a)(1)(A) of the Tariff Act of 1930, as amended (the Act). For each of the subsidy programs found countervailable, we find that there is a subsidy, *i.e.,* a government-provided financial contribution that gives rise to a benefit to the recipient, and that the subsidy is specific.[4] For a description of the methodology underlying all of Commerce's conclusions, *see* the Issues and Decision Memorandum.

Partial Rescission of Review

Commerce initiated a review of Mitsubishi International Corporation (Mitsubishi) in this administrative review.[5] In the *Preliminary Results,* we stated our intent to rescind the review with respect to Mitsubishi because Mitsubishi claimed no shipments during the POR and we did not receive any contradictory information. Therefore, in accordance with 19 CFR 351.213(d)(3), we are rescinding this

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[1] *See Certain Corrosion-Resistant Steel Products from the Republic of Korea: Preliminary Results of Countervailing Duty Administrative Review; and Rescission of Review, Rescission of Review, in Part, and Intent to Rescind, in Part; 2015–16* (August 10, 2018) (*Preliminary Results*), and accompanying Preliminary Decision Memorandum.

[2] *See* Memorandum re: Issues and Decision Memorandum For the Final Results of Countervailing Duty Administrative Review of Corrosion-Resistant Steel Products from the Republic of Korea; 2015–2017 (Issues and Decision Memorandum, or IDM), dated concurrently with, and hereby adopted by, this notice.

[3] *See* Memorandum re: Deadlines Affected by the Partial Shutdown of the Federal Government, dated January 28, 2019. All deadlines in this segment of the proceeding have been extended by 40 days.

[4] *See* sections 771(5)(B) and (D) of the Act regarding financial contribution; section 771(5)(E) of the Act regarding benefit; and section 771(5A) of the Act regarding specificity.

[5] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 82 FR 42974 (September 13, 2017) (*Initiation Notice*), *corrected by Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 82 FR 48051 (October 16, 2017) (*Correction Notice*).

administrative review with respect to Mitsubishi.

Companies Not Selected for Individual Review

For the companies not selected for individual review, because the rates calculated for Dongbu and Hyundai Steel were above *de minimis* and not based entirely on facts available, we applied a subsidy rate based on a weighted-average of the subsidy rates calculated for Dongbu and Hyundai Steel using publicly ranged sales data submitted by respondents. This is consistent with the methodology that we would use in an investigation to establish the all-others rate, pursuant to section 705(c)(5)(A) of the Act.

Final Results of Administrative Review

In accordance with section 777A(e)(1) of the Act and 19 CFR 351.221(b)(5), we determine the total estimated net countervailable subsidy rates for the period November 6, 2015, through December 31, 2016 to be:

Company	Subsidy rate (percent *ad valorem*)	
	2015	2016
Dongbu Steel Co., Ltd./Dongbu Incheon Steel Co., Ltd	7.63	8.47
Hyundai Steel Company	0.61	0.57
Bukook Steel Co., Ltd	3.13	3.34
CJ Korea Express	3.13	3.34
DK Dongshin Co., Ltd	3.13	3.34
Dongbu Express	3.13	3.34
Hongyi (HK) Hardware Products Co., Ltd	3.13	3.34
Jeil Sanup Co., Ltd	3.13	3.34
POSCO	3.13	3.34
POSCO C&C	3.13	3.34
POSCO Daewoo Corp	3.13	3.34
Sejung Shipping Co., Ltd	3.13	3.34
SeAH Steel	3.13	3.34
Seil Steel Co., Ltd	3.13	3.34
Soon Hong Trading Co., Ltd	3.13	3.34
Taisan Construction Co., Ltd	3.13	3.34
TCC Steel Co., Ltd	3.13	3.34
Young Sun Steel Co	3.13	3.34

Assessment and Cash Deposit Requirements

In accordance with 19 CFR 351.212(b)(2), Commerce intends to issue appropriate instructions to U.S. Customs and Border Protection (CBP) 15 days after publication of the final results of this review. We will instruct CBP to liquidate shipments of subject merchandise produced and/or exported by the companies listed above, entered, or withdrawn from warehouse for consumption, from November 6, 2015, through December 31, 2016, at the *ad valorem* rates listed above. The liquidation rate applicable to the period in 2015 will be the 2015 rates shown above, and the rates applicable to the period in 2016 will be the 2016 rates shown above. The 2016 rates will also serve as the cash deposit rates for exports of subject merchandise subsequent to these final results.

We intend also to instruct CBP to collect cash deposits of estimated countervailing duties, in the amounts shown above for 2016, on shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this review. For all non-reviewed firms, we will instruct CBP to continue to collect cash deposits at the most-recent company-specific or all-others rate applicable to the company, as appropriate. These cash deposit requirements, when imposed, shall remain in effect until further notice.

Administrative Protective Order

This notice also serves as a final reminder to parties subject to an administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in this segment of proceeding. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

Disclosure

We will disclose the calculations performed within five days of the date of publication of this notice to parties in this proceeding, in accordance with 19 CFR 351.224(b).

These final results are issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: March 18, 2019.

Christian Marsh,

Deputy Assistant Secretary for Enforcement and Compliance.

Appendix—List of Topics Discussed in the Issues and Decision Memorandum

I. Summary
II. Scope of the Order
III. Period of Review
IV. Rescission of Administrative Review, in Part
V. Subsidies Valuation Information
VI. Analysis of Programs
VII. Discussion of Comments
- Comment 1: Whether Hyundai Green Power is Hyundai Steel's Cross-Owned Input Supplier
- Comment 2: Whether Tax Benefits Should be Adjusted to Account for the Special Rural Development Tax
- Comment 3: Whether Tax Credit Programs Under the RSTA Meet the Specificity Requirement
- Comment 4: Whether Suncheon Harbor Usage Fee Exemptions under the Harbor Act Are Countervailable
- Comment 5: Whether the Trading of Demand Response Resource Program is Specific
- Comment 6: Rescission of Review with Respect to Mitsubishi International Corporation
- Comment 7: Whether the Non-Government-Owned Banks Participating in Dongbu's Debt Restructuring Program Provided a Financial Contribution

Comment 8: Whether Dongbu's Loan Restructuring by the GOK Creditors Provided a Financial Contribution and Benefit to Dongbu
Comment 9: Whether Loan Restructuring Provided to Dongbu was Specific Pursuant to Section 771(5A)(D)(iii) of the Act
Comment 10: Whether Commerce Should Use the Interest Rate of Commercial Banks Participating in the Creditor Bank Committee as the Loan Benchmark
Comment 11: Whether the Debt-To-Equity Swaps in Dongbu's Debt Restructuring Program Conferred a Benefit
VIII. Recommendation

[FR Doc. 2019–05904 Filed 3–27–19; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Alaska Community Quota Entity (CQE) Program.

OMB Control Number: 0648–0665.

Form Number(s): None.

Type of Request: Regular. (Extension of currently approved collection.)

Number of Respondents: 36.

Average Hours per Response: 200 hours for Application for a Non-profit Corporation to be Designated as a CQE; 2 hours each for Application to transfer Quota Share Individual Fishing Quota (IFQ) to or from a CQE, Application for CQE to Transfer IFQ to an Eligible Community Resident or Non-resident, and Application for Transfer between IFQ and Guided Angler Fish by a CQE; 20 hours for Application for a CQE to Receive a Nontrawl Groundfish LLP License; 40 hours for CQE Annual Report; 1 hour each for Application for Community Charter Halibut Permit and CQE License Limitation Program (LLP) Authorization Letter.

Burden Hours: 1,737 hours.

Needs and Uses: This request is for extension of a currently approved information collection that contains applications, permits, and reports necessary to manage the CQE Program. The CQE Program allocates to eligible communities in Alaska a portion of the harvest quotas for groundfish, halibut, crab, and prohibited species. The allocations provide these communities the means for starting or supporting commercial fisheries activities that will result in an ongoing, regionally based, fisheries-related economy.

This collection contains applications used by a nonprofit corporation to become a CQE; by CQEs to receive nontrawl groundfish LLP licenses and CHP permits; by CQEs to transfer or receive IFQ QS; by CQEs to transfer IFQ to an eligible community resident or non-resident; and by CQEs to transfer between commercial halibut IFQ and halibut guided angler fish. In addition, this collection contains two reporting requirements: An annual report and an authorization letter. Annually each CQE must submit a report describing its business operations and fishing activities for each eligible community it represents. CQEs requesting LLP groundfish licenses must annually submit an authorization letter that assigns each community LLP license to a user and vessel.

The National Marine Fisheries Service uses this information collection to evaluate the ability of a specific CQE to represent an eligible community and to augment fisheries management. The information collected is used to establish eligibility of the CQEs; review each CQE's business operations and fishing activity; monitor participation of the eligible communities in the CQE Program and associated limited access programs; and gather information on distribution and use among these communities of LLP groundfish licenses, charter halibut permits, and halibut and sablefish QS and IFQ.

Affected Public: Not-for-profit institutions; Individuals or households.

Frequency: Annually; on occasion.

Respondent's Obligation: Mandatory.

This information collection request may be viewed at *reginfo.gov.* Follow the instructions to view Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *OIRA_Submission@omb.eop.gov* or fax to (202) 395–5806.

Sheleen Dumas,

Departmental Lead PRA Officer, Office of the Chief Information Officer, Commerce Department.

[FR Doc. 2019–05921 Filed 3–27–19; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Proposed Information Collection; Comment Request; Atlantic Highly Migratory Species Tournament Registration and Reporting.

OMB Control Number: 0648–0323.

Form Number(s): None.

Type of Request: Regular submission (extension of a current information collection).

Number of Respondents: 600.

Average Hours per Response: Tournament registration, 2 minutes; tournament summary reporting, 20 minutes.

Burden Hours: 110.

Needs and Uses: Under the provisions of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*), NOAA's National Marine Fisheries Service (NMFS) is responsible for management of the nation's marine fisheries. Existing regulations require operators of tournaments involving Atlantic highly migratory species (HMS; Atlantic swordfish, sharks, billfish, and tunas) to register four weeks in advance of the tournament. Operators must provide contact information and the tournament's date(s), location(s), and target species. All operators are required to submit an HMS tournament summary report within seven days after tournament fishing has ended. Most of the catch data in the summary report is routinely collected in the course of regular tournament operations. NMFS uses the data to estimate the total annual catch of HMS and the impact of tournament operations in relation to other types of fishing activities. In addition, HMS tournament registration provides a method for tournament operators to request educational and regulatory outreach materials from NMFS.

Affected Public: Business or other for-profit organizations; Not-for-profit institutions.

Frequency: Varies with the number of tournaments occurring.

Respondent's Obligation: Tournament operators are required to submit an

HMS tournament summary report within seven days after tournament fishing has ended.

This information collection request may be viewed at *reginfo.gov*. Follow the instructions to view Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *OIRA_Submission@omb.eop.gov* or fax to (202) 395–5806.

Sheleen Dumas,

Departmental Lead PRA Officer, Office of the Chief Information Officer, Commerce Department.

[FR Doc. 2019–05918 Filed 3–27–19; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Application for Appointment in the NOAA Commissioned Officer Corps.

OMB Control Number: 0648–0047.

Form Number(s): NOAA Forms 56–42; 56–42D.

Type of Request: Regular submission.

Number of Respondents: 300.

Average Hours per Response: Application, 2 hours; references, 15 minutes; applicant interview, 5 hours.

Burden Hours: 2,475.

Needs and Uses: The NOAA Commissioned Officer Corps is the uniformed service of the National Oceanic and Atmospheric Administration, a bureau of the United States Department of Commerce. The NOAA Corps provides a cadre of professionals trained in engineering, earth sciences, oceanography, meteorology, fisheries science, and other related disciplines who serve their country by supporting NOAA's mission of surveying the Earth's oceans, coasts, and atmosphere to ensure the economic and physical well-being of the Nation. NOAA Corps officers operate vessels and aircraft engaged in scientific missions and serve in leadership positions throughout NOAA. Persons wishing to apply for an appointment in the NOAA Commissioned Officer Corps must complete an application package.

Affected Public: Individuals or households.

Frequency: On occasion.

Respondent's Obligation: Voluntary.

This information collection request may be viewed at *reginfo.gov*. Follow the instructions to view Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *OIRA_Submission@omb.eop.gov* or fax to (202) 395–5806.

Sheleen Dumas,

Departmental Lead PRA Officer, Office of the Chief Information Officer, Commerce Department.

[FR Doc. 2019–05916 Filed 3–27–19; 8:45 am]

BILLING CODE 3510–12–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Designation of Fishery Management Council Members and Application for Reinstatement of State Authority.

OMB Control Number: 0648–0314.

Form Number(s): None.

Type of Request: Regular (extension of a currently approved collection).

Number of Respondents: 275.

Average Hours per Response: 1 hour to designate a principal state fishery official(s) or for a request to reinstate authority; 80 hours for a nomination for a Council appointment; 16 hours for background documentation for nominees.

Burden Hours: 4,607.

Needs and Uses: The Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), as amended in 1996, provides for the nomination for members of Fishery Management Councils by state governors and Indian treaty tribes, for the designation of a principal state fishery official who will perform duties under the Magnuson-Stevens Act, and for a request by a state for reinstatement of state authority over a managed fishery. Nominees for council membership must provide the governor or tribe with background documentation, which is then submitted to NOAA with the nomination. The information submitted with these actions will be used to ensure that the requirements of the Magnuson-Stevens Act are being met.

Affected Public: State, Local or Tribal government.

Frequency: Annual.

Respondent's Obligation: Required per regulation at 50 CFR 600.215.

This information collection request may be viewed at *reginfo.gov*. Follow the instructions to view Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *OIRA_Submission@omb.eop.gov* or fax to (202) 395–5806.

Sheleen Dumas,

Departmental Lead PRA Officer, Office of the Chief Information Officer, Commerce Department.

[FR Doc. 2019–05917 Filed 3–27–19; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Specified Fishing Agreements for U.S. Territorial Catch, Effort and Allocation Limits.

OMB Control Number: 0648–0689.

Form Number(s): None.

Type of Request: Regular (extension of a current collection of information).

Number of Respondents: 5.

Average Hours per Response: 6 hours per agreement; 2 hours per appeal.

Burden Hours: 32 (estimating one appeal per year).

Needs and Uses: The Fishery Ecosystem Plan (FEP) for Pelagic Fisheries of the Western Pacific contains a process that allows NOAA's National

Marine Fisheries Service (NMFS) to implement catch and/or fishing effort limits for management unit species (MUS) caught by pelagic fisheries in the American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands (hereinafter, the U.S. territories). The process also allows NMFS to authorize the government of each U.S. territory to allocate a specific amount of MUS to a U.S. fishing vessel permitted under the FEP through a specified fishing agreement, not to exceed the amount made available for allocation by NMFS. Funds provided by U.S. fishing vessels through a specified fishing agreement are deposited into the Western Pacific Sustainable Fisheries Fund (SFF) to support fisheries development projects listed in a marine conservation plan of a U.S. territory submitted to and approved by the Secretary of Commerce.

Data gathered under a specified fishing agreement will include the identity of fishing vessels subject to the agreement, the amount (weight) of MUS or fishing effort to which the agreement applies, and the amount of monetary contributions that fishing vessel, subject to the agreement, will deposit into the SFF, if applicable. Additionally, specified fishing agreements must be signed by an authorized official of the U.S. territory or designated representative, and be signed by each vessel owner or designated representative. There is no form for an agreement.

NMFS will use the data collected to determine vessel eligibility, and ensure the amount of MUS or fishing effort available for allocation to a U.S. fishing vessel is consistent with the Pelagic FEP, the Magnuson-Stevens Fishery Conservation and Management Act and other applicable laws, and the conservation needs of the stock.

Affected Public: Individuals or households; business or other for-profit organizations; State or Territorial government.

Frequency: Annual.

Respondent's Obligation: To submit a complete specified fishing agreement that includes the information set forth in federal regulations at 50 CFR 665.819.

This information collection request may be viewed at *reginfo.gov*. Follow the instructions to view Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *OIRA_Submission@omb.eop.gov* or fax to (202) 395–5806.

Sheleen Dumas,

Departmental Lead PRA Officer, Office of the Chief Information Officer, Commerce Department.

[FR Doc. 2019–05920 Filed 3–27–19; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: International Billfish Angler Survey.

OMB Control Number: 0648–0020.

Form Number(s): NOAA Form 88–10.

Type of Request: Regular.

Number of Respondents: 600.

Average Hours per Response: 5 minutes.

Burden Hours: 50.

Needs and Uses: The International Billfish Angler Survey began in 1969 and is an integral part of the Billfish Research Program at the National Oceanic and Atmospheric Administration's (NOAA) Southwest Fisheries Science Center (SWFSC). The survey tracks recreational angler fishing catch and effort for billfish in the Pacific and Indian Oceans in support of the Pacific and Western Pacific Fishery Management Councils, authorized under the Magnuson-Stevens Fishery Conservation and Management Act (MSA). The data are used by scientists and fishery managers to assist with assessing the status of billfish stocks. The survey is intended for anglers cooperating in the Billfish Program and is entirely voluntary. This survey is specific to recreational anglers fishing for Istiophorid and Xiphiid billfish in the Pacific and Indian Oceans; as such it provides the only estimates of catch per unit of effort for recreational billfish fishing in those areas.

Affected Public: Individuals or households.

Frequency: Once annually.

Respondent's Obligation: $0 in recordkeeping/reporting costs.

This information collection request may be viewed at *reginfo.gov*. Follow the instructions to view Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *OIRA_Submission@omb.eop.gov* or fax to (202) 395–5806.

Sheleen Dumas,

Departmental Lead PRA Officer, Office of the Chief Information Officer, Commerce Department.

[FR Doc. 2019–05914 Filed 3–27–19; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Marine Recreational Information Program, Access-Point Angler Intercept Survey (APAIS).

OMB Control Number: 0648–0659.

Form Number(s): None.

Type of Request: Regular submission (extension of a current information collection).

Number of Respondents: 100,000.

Average Hours per Response: 0.083.

Burden Hours: 8,333.

Needs and Uses: Data collected from the APAIS are used to estimate the finfish catch per angler of recreational saltwater fishers. These APAIS estimates are combined with estimates derived from independent but complementary surveys of fishing effort, the Fishing Effort Survey and the For-Hire Survey, to estimate total, state-level fishing catch by species. These estimates are used in the development, implementation, and monitoring of fishery management programs by the NMFS, regional fishery management councils, interstate marine fisheries commissions, and state fishery agencies. These data are required to carry out provisions of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*), as amended, regarding conservation and management of fishery resources.

Affected Public: Individuals or Households.

Frequency: One-time, in-person interview.

Respondent's Obligation: Voluntary.

This information collection request may be viewed at *reginfo.gov*. Follow the instructions to view Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *OIRA_Submission@omb.eop.gov* or fax to (202) 395–5806.

Sheleen Dumas,

Departmental Lead PRA Officer, Office of the Chief Information Officer, Commerce Department.

[FR Doc. 2019–05919 Filed 3–27–19; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Capital Construction Fund Agreement, Certificate Family of Forms and Deposit/Withdrawal Report.

OMB Control Number: 0648–0041.

Form Number(s): NOAA Form 34–82; NOAA Form 88–14; Certificate Family of Forms.

Type of Request: Regular submission (extension of a current information collection).

Number of Respondents: 1,000 (NOAA Form 34–82); 50 (NOAA Form 88–14); 550 (Certificate Family of Forms).

Average Hours per Response: 3.5 hours (NOAA Form 34–82); 0.5 hours (NOAA Form 88–14); 1.0 hour (Certificate Family of Forms).

Burden Hours: 4,075.

Needs and Uses: NOAA Form 34–82, NOAA Form 88–14 and the Certificate Family of Forms are used to facilitate meeting the continuing recordkeeping requirements of the Capital Construction Fund (CCF) program. The Merchant Marine Act of 1936, as amended by Public Law 91–469 and Public Law 99–514, provides for the administration of a Capital Construction Fund (CCF) Program by the National Marine Fisheries Service (NMFS). The CCF is a tax deferral program which allows participating fishermen to defer tax on vessel income deposited into the Fund and provides for recapture of the deferred tax by reducing an Agreement vessel's basis by the amount withdrawn for its construction, acquisition and/or reconstruction. Program requirements are detailed at 50 CFR part 259.

Affected Public: Business or other for-profit organizations.

Frequency: Once per year (NOAA Form 34–82); Once when applying for program benefits (NOAA Form 88–14); Varies depending on project intent (Certificate Family of Forms).

Respondent's Obligation: To remain compliant, active Agreement holders must submit NOAA Form 34–82 along with a copy of their Federal income tax return not later than 30 days after the deadline, with extensions, for filing their tax return. The Certificate Family of Forms is completed prior to project commencement at a minimum of once every ten years. New applicants are required to complete a written Agreement (NOAA Form 88–14) and application related documents in the Certificate Family of Forms only once, as part of their packet submission.

This information collection request may be viewed at *reginfo.gov*. Follow the instructions to view Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *OIRA_Submission@omb.eop.gov* or fax to (202) 395–5806.

Sheleen Dumas,

Departmental Lead PRA Officer, Office of the Chief Information Officer, Commerce Department.

[FR Doc. 2019–05913 Filed 3–27–19; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Charter Renewal of Department of Defense Federal Advisory Committees

AGENCY: Department of Defense.

ACTION: Renewal of Federal Advisory Committee.

SUMMARY: The Department of Defense is publishing this notice to announce that it is renewing the charter for the Board of Regents, Uniformed Services University of the Health Sciences (''the Board'').

FOR FURTHER INFORMATION CONTACT: Jim Freeman, Advisory Committee Management Officer for the Department of Defense, 703–692–5952.

SUPPLEMENTARY INFORMATION: The Board's charter is being renewed pursuant to 10 U.S.C. 2113a and in accordance with the Federal Advisory Committee Act (FACA) of 1972 (5 U.S.C., Appendix, as amended) and 41 CFR 102–3.50(a). The Board's charter and contact information for the Board's Designated Federal Officer (DFO) can be found at *https://www.facadatabase.gov/FACA/apex/FACAPublicAgencyNavigation.*

The Board shall assist the Secretary of Defense in an advisory capacity in carrying out the Secretary's responsibility to conduct the business of the Uniformed Services University of the Health Sciences (''the University''). The Board shall provide advice and recommendations on academic and administrative matters critical to the full accreditation and successful operation of the University.

Pursuant to 10 U.S.C. 2113a(b), the Board shall be composed of 15 members, appointed or designated as follows: a. Nine persons outstanding in the fields of health care, higher education administration, or public policy, who shall be appointed from civilian life by the DoD Appointing Authorities; b. the Secretary of Defense, or his or her designee, who shall be an ex-officio member; c. the Surgeons General of the Uniformed Services, who shall be ex-officio members; and d. the President of the University, who shall be a non-voting, ex-officio member. As directed by 10 U.S.C. 2113a(c), the term of office of each member of the Board (other than ex-officio members) shall be six years except that: a. Any member appointed to fill a vacancy occurring before the expiration of the term for which his or her predecessor was appointed shall be appointed for the remainder of such term; and, b. any member whose term of office has expired shall continue to serve until his or her successor is appointed.

In accordance with 10 U.S.C. 2113a(d), one of the members of the Board (other than an ex-officio member) shall be designated as Chair by the DoD Appointing Authorities and shall be the presiding officer of the Board.

Board members who are not ex-officio members shall be appointed by the DoD Appointing Authorities, and their appointments will be renewed on an annual basis according to DoD policies and procedures. No member, unless approved by the DoD Appointing Authorities, may serve more than two

consecutive terms of service on the Board, to include its subcommittees, or serve on more than two DoD federal advisory committees at one time.

Members of the Board who are not full-time or permanent part-time Federal officers or employees will be appointed as experts or consultants, pursuant to 5 U.S.C. 3109, to serve as special government employee members. Board members who are full-time or permanent part-time Federal officers or employees will be appointed, pursuant to 41 CFR 102–3.130(a), to serve as regular government employee members.

All members of the Board are appointed to provide advice on the basis of their best judgment without representing any particular point of view and in a manner that is free from conflict of interest.

Pursuant to 10 U.S.C. 2113a(e), Board members (other than ex-officio members), while attending conferences or meetings or while otherwise performing their duties as members, shall be entitled to receive compensation at a rate to be fixed by the Secretary of Defense. Each member is reimbursed for travel and per diem as it pertains to official business of the Board.

The public or interested organizations may submit written statements to the Board membership about the Board's mission and functions. Written statements may be submitted at any time or in response to the stated agenda of planned meeting of the Board. All written statements shall be submitted to the DFO for the Board, and this individual will ensure that the written statements are provided to the membership for their consideration.

Dated: March 22, 2019.

Aaron T. Siegel,

Alternate OSD Federal Register, Liaison Officer, Department of Defense.

[FR Doc. 2019–05906 Filed 3–27–19; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Charter Renewal of Department of Defense Federal Advisory Committees

AGENCY: Office of the Secretary, Department of Defense.

ACTION: Renewal of Federal Advisory Committee.

SUMMARY: The Department of Defense is publishing this notice to announce that it is renewing the charter for the Inland Waterways Users Board (''the Board'').

FOR FURTHER INFORMATION CONTACT: Jim Freeman, Advisory Committee Management Officer for the Department of Defense, 703–692–5952.

SUPPLEMENTARY INFORMATION: The Board's charter is being renewed pursuant to 33 U.S.C. 2251(a), and in accordance with the Federal Advisory Committee Act (FACA) (5 U.S.C., App) and 41 CFR 102–3.50(a). The Board's charter and contact information for the Board's Designated Federal Officer (DFO) can be found at *https://www.facadatabase.gov/FACA/apex/FACAPublicAgencyNavigation*.

Pursuant to 33 U.S.C. 2251(a), the Board shall be composed of eleven members appointed to serve as representative members. The members shall be selected so as to represent various regions of the country and a spectrum of the primary users and shippers utilizing the inland and intracoastal waterways for commercial purposes. Due consideration shall be given to assure a balance among the members based on the ton-mile shipments of the various categories of commodities shipped on inland waterways. In addition, the Secretary of the Army shall designate, and the Secretaries of Agriculture, Transportation, and Commerce may each designate, a representative to act as an observer of the Board.

Consistent with 33 U.S.C. 2251(a), the Secretary of the Army, as the DoD Sponsor, shall designate one Board member to serve as the Board's Chairperson. The Secretary of Defense, Deputy Secretary of Defense, or the Chief Management Officer for the DoD may approve the appointment of a Vice Chair in accordance with DoD policy. The Chair shall appoint a representative of the Board to serve as an advisor to the project development team for a qualifying project or the study or design of a commercial navigation feature or component of the inland waterways and inland harbors of the United States. The Chair and the project development team member appointed by the Chair may sign the project management plan for the qualifying project or the study or design of a commercial navigation feature or component of the inland waterways and inland harbors of the United States pursuant to 33 U.S.C. 2251(b)(3) and (e).

The Board, in accordance with 33 U.S.C. 2251(b)(2), shall provide advice and recommendations to: a. The Secretary regarding construction and rehabilitation priorities and spending levels prior to the development of the budget proposal of the President for a given fiscal year; b. Congress regarding any feasibility report for a project on the inland waterway system that has been submitted to Congress pursuant to 33 U.S.C. 2282d; c. Congress regarding an increase in the authorized cost of those features and components; d. Congress regarding construction and rehabilitation priorities and spending levels no later than 60 days after the date of the submission of the budget proposal of the President to Congress; e. and the Secretary and Congress on the development of a long-term capital investment program in accordance with 33 U.S.C. 2251(d).

The Secretary of Defense, pursuant to 33 U.S.C. 2251(c), shall: a. Communicate no less frequently than once each quarter to the Board the status of the study, design, or construction of all commercial navigation features or components of the inland waterways or inland harbors of the United States; and b. submit to the Board a courtesy copy of all completed feasibility reports relating to a commercial navigation feature or component of the inland waterways or inland harbors of the United States.

The public or interested organizations may submit written statements to the Board's membership about the Board's mission and functions. Written statements may be submitted at any time or in response to the stated agenda of planned meeting of the Board. All written statements shall be submitted to the DFO for the Board, and this individual will ensure that the written statements are provided to the membership for their consideration.

Dated: March 22, 2019.

Aaron T. Siegel,

Alternate OSD Federal Register, Liaison Officer, Department of Defense.

[FR Doc. 2019–05915 Filed 3–27–19; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF EDUCATION

[Docket ID Number ED–2019–IES–0017]

Proposed Priorities for the Institute of Education Sciences and Request for Comment

AGENCY: Institute of Education Sciences, U.S. Department of Education.

ACTION: Notice.

SUMMARY: The Director of the Institute of Education Sciences (IES) proposes priorities to guide IES' work and provides a 60-day period for members of the public to review and comment on them. When the Director submits the priorities to the National Board for Education Sciences (the Board) for its

approval, all comments received in response to this notice will be provided as well.

DATES: We must receive your comments on or before May 28, 2019.

ADDRESSES: Submit your comments through the Federal eRulemaking Portal or via postal mail, commercial delivery, or hand delivery. We will not accept comments submitted by fax or by email or those submitted after the comment period. To ensure that we do not receive duplicate copies, please submit your comments only once. In addition, please include the Docket ID at the top of your comments.

- *Federal eRulemaking Portal:* Go to *www.regulations.gov* to submit your comments electronically. Information on using *Regulations.gov*, including instructions for accessing agency documents, submitting comments, and viewing the docket, is available on the site under ''Help.''
- *Postal Mail, Commercial Delivery, or Hand Delivery:* The Department strongly encourages commenters to submit their comments electronically. However, if you mail or deliver your comments about the proposed priorities, address them to Dr. Mark Schneider, Director, Institute of Education Sciences, U.S. Department of Education, 400 Maryland Ave SW, Room 4109, Potomac Center Plaza, Washington, DC 20202.

Privacy Note: The Department's policy is to make comments received from members of the public available for public viewing on the Federal eRulemaking Portal at *www.regulations.gov.* Therefore, commenters should be careful to include in their comments only information that they wish to make publicly available.

FOR FURTHER INFORMATION CONTACT: Teresa Cahalan at (202) 245–7299 or by email at: *teresa.cahalan@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:

Invitation to Comment: We invite you to submit comments regarding the proposed priorities. To ensure that your input has maximum effect, we urge you to identify clearly the portion of the proposed priorities that your comment addresses.

During and after the comment period, you may inspect all public comments about this notice in 550 12th St SW, Room 4126, Washington, DC, between the hours of 8:30 a.m. and 4:00 p.m., Eastern Time, Monday through Friday of each week except Federal holidays.

Assistance to Individuals with Disabilities in Reviewing the Comments: On request, we will supply an appropriate accommodation or auxiliary aid to an individual with a disability who needs assistance to review the comments or other documents related to this notice. If you want to schedule an appointment for this type of accommodation or auxiliary aid, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

Program Authority: Education Sciences Reform Act of 2002 (20 U.S.C. 9515)

Proposed Priorities for the Institute of Education Sciences

Background: The Education Sciences Reform Act of 2002 (20 U.S.C. 9515) requires the Director of IES to propose to the Board priorities for IES—that is, topics that require long-term research and are focused on understanding and solving education problems and issues. Such topics may include those associated with the goals and requirements of the Elementary and Secondary Education Act of 1965, as amended, the Individuals with Disabilities Education Act, as amended, and the Higher Education Act of 1965, as amended, such as closing the achievement gap; ensuring that all children have the ability to obtain a high-quality education and reach, at a minimum, proficiency on State standards and assessments; and ensuring access to, and opportunities for, postsecondary education.

Before submitting proposed priorities to the Board, the Director must make the priorities available to the public for comment for not less than 60 days and provide each comment submitted to the Board. The Board must approve or disapprove the priorities for IES proposed by the Director, including any necessary revision of the priorities. Once approved, the Board will transmit the priorities to the appropriate congressional committees.

Mission

By its authorizing legislation, IES is charged with supporting research, conducting evaluations, and gathering statistics to improve the academic achievement and the access to high-quality education of all learners from early childhood to adulthood. As an applied science agency, IES seeks to translate its work into useful and usable information that can be accessed by a wide range of stakeholders.

Overview

- In pursuit of its goals, IES supports research, conducts evaluations, and gathers statistics that conform to rigorous scientific standards.
- To ensure education programs and policies are evidence based, IES disseminates and promotes the use of research in ways that are objective, unbiased, and accessible.
- By furthering the transformation of education into an evidence-based field, IES enables the Nation to educate learners across the lifespan cost effectively.

Goals

- To gather educational statistics that provide information on schools, teachers, and learners across the Nation and serve as a foundation for education science research.
- To develop and identify programs, practices, and policies that enhance learner achievement and that can be widely deployed.
- To better measure and understand the variation in the effectiveness of education programs, practices, and policies.
- To help identify the activities that best fit with schools and learners characterized by different economic and social attributes and different learning needs.
- To better measure the cost and cost-effectiveness of education interventions;
- To disseminate the results of scientifically valid research, statistics, and evaluations in ways that are accessible, understandable, and usable in the improvement of educational practice by teachers and other educators, parents and families, learners, administrators, researchers, policymakers, and the public.

Standards for Excellence in Education Research

To increase the quality and usefulness of education research, IES promotes, encourages, and supports the use of the Standards for Excellence in Education Research (SEER), which is available at *https://ies.ed.gov/seer.asp*. Under SEER, as appropriate for a particular research program, researchers:

- Preregister their studies.
- Make their data and methods openly available.
- Identify the core components of interventions.
- Document implementation.
- Focus on meaningful outcomes.
- Analyze costs and calculate the cost-effectiveness of interventions.
- Have a strategy for scaling up.

In furtherance of these goals, IES has the following specific priorities:

A Focus on Outcomes

- At infancy, toddler, and preschool levels, key measures include:

○ Readiness for schooling; and
○ Developmental outcomes for infants and toddlers with or at risk for disabilities.

• At kindergarten through 12th grade, key measures include:
○ Higher achievement in reading, writing, science, technology, engineering, and math;
○ Improvement in other indicators of achievement besides student performance on assessments, such as annual student attendance and retention rates and, where applicable and available, student academic growth, high school graduation rates, and postsecondary enrollment and persistence rates.
○ Improvement in non-academic outcomes such as, but not limited to, parent satisfaction, school climate, student mental health, and civic engagement.
○ Improved teaching and learning;
○ Improved behaviors and social skills that support learning in school and successful transitions; and
○ Functional outcomes that improve success in school and transitions to employment, independent living, and postsecondary education for students with disabilities.

• At the postsecondary level, key measures include:
○ Enrollment in, and completion of, programs that prepare learners for successful careers and lives;
○ Family sustaining wages post-completion;
○ Improved teaching and learning; and
○ Acquisition of skills by adults.

Increasing Dissemination and Use

• Increase outreach to teachers and other educators, parents and families, learners, administrators, researchers, policymakers, and the public using both traditional and new media.
• Enhance the experience of *What Works Clearinghouse* users, adding features that make its reviews more useful and usable.
• Increase the number of *What Works Clearinghouse* Practice Guides and Intervention Reports, ensuring that they are written in an accessible manner and supported by material that increases the use of this information.
• Develop and refine education research methods including new methods that take advantage of large administrative data sets and increased computing power.
• Expand the use of research using longitudinal data sets.
• Invest in postsecondary programs that develop a pipeline of talented education researchers, especially programs that include apprenticeships in education agencies.
• Encourage partnerships between researchers and private companies, both non-profit and for-profit, to put interventions that work into more schools and in the hands of more teachers, parents and families, and learners.

Accessible Format: Individuals with disabilities can obtain this document in an accessible format (*e.g.,* braille, large print, audiotape, or compact disc) on request to the 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 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.federalregister.gov*. Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Mark Schneider,
Director, Institute of Education Sciences.

[FR Doc. 2019–05970 Filed 3–27–19; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP19–849–000.
Applicants: Elba Express Company, L.L.C.
Description: Compliance filing Annual Interruptible Revenue Crediting Report 2019.
Filed Date: 3/20/19.
Accession Number: 20190320–5000.
Comments Due: 5 p.m. ET 4/1/19.

Docket Numbers: RP19–850–000.
Applicants: Florida Gas Transmission Company, LLC.
Description: § 4(d) Rate Filing: Fuel Filing for FTS–WD–2 on 3–20–19 to be effective 4/1/2019.
Filed Date: 3/20/19.
Accession Number: 20190320–5126.
Comments Due: 5 p.m. ET 3/27/19.

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 21, 2019.

Nathaniel J. Davis, Sr.,
Deputy Secretary.

[FR Doc. 2019–05898 Filed 3–27–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL19–55–000]

Hoosier Energy Rural Electric Cooperative, Inc.; Notice of Filing

Take notice that on March 20, 2019, Hoosier Energy Rural Electric Cooperative, Inc. filed a proposed revenue requirement filing for reactive supply and voltage control for its Livingston Generating and Orchard Hills Generating Stations, under PJM Interconnection L.L.C., Tariff Schedule 2.

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. On or before the

comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the website that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5:00 p.m. Eastern Time on April 10, 2019.

Dated: March 21, 2019.

Kimberly D. Bose,

Secretary.

[FR Doc. 2019–05902 Filed 3–27–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–1107–009.
Applicants: Pacific Gas and Electric Company.
Description: Notice of Non-Material Change in Status of Pacific Gas and Electric Company.
Filed Date: 3/21/19.
Accession Number: 20190321–5103.
Comments Due: 5 p.m. ET 4/11/19.

Docket Numbers: ER12–524–004.
Applicants: Longview Power, LLC.
Description: Report Filing: Refund Report ? Informational Filing to be effective N/A.
Filed Date: 3/21/19.
Accession Number: 20190321–5142.
Comments Due: 5 p.m. ET 4/11/19.

Docket Numbers: ER19–839–001.
Applicants: Virginia Electric and Power Company, PJM Interconnection, L.L.C.
Description: Compliance filing: Dominion submits an errata to OATT, Att. H–16A revisions in Docket No. ER19–839 to be effective 6/27/2018.
Filed Date: 3/21/19.
Accession Number: 20190321–5131.
Comments Due: 5 p.m. ET 4/11/19.

Docket Numbers: ER19–1392–000.
Applicants: High Lonesome Mesa Wind, LLC.
Description: Baseline eTariff Filing: High Lonesome Mesa Wind, LLC Application for Market-Based Rates to be effective 5/19/2019.
Filed Date: 3/20/19.
Accession Number: 20190320–5149.
Comments Due: 5 p.m. ET 4/10/19.

Docket Numbers: ER19–1393–000.
Applicants: Endeavor Wind I, LLC.
Description: Baseline eTariff Filing: Endeavor Wind I, LLC Application for Market-Based Rates to be effective 5/19/2019.
Filed Date: 3/20/19.
Accession Number: 20190320–5150.
Comments Due: 5 p.m. ET 4/10/19.

Docket Numbers: ER19–1394–000.
Applicants: Endeavor Wind II, LLC.
Description: Baseline eTariff Filing: Endeavor Wind II, LLC Application for Market-Based Rates to be effective 5/5/2019.
Filed Date: 3/20/19.
Accession Number: 20190320–5151.
Comments Due: 5 p.m. ET 4/10/19.

Docket Numbers: ER19–1395–000.
Applicants: NSTAR Electric Company.
Description: Tariff Cancellation: Cancellation of Design Engineering Construction Agrmnt w/NSTAR & New England Pwr to be effective 3/21/2019.
Filed Date: 3/21/19.
Accession Number: 20190321–5030.
Comments Due: 5 p.m. ET 4/11/19.

Docket Numbers: ER19–1397–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: § 205(d) Rate Filing: 2019–03–21_SA 3278 Beaver Creek Grimes MPFCA (J498 J524 J534 J535) to be effective 3/7/2019.
Filed Date: 3/21/19.
Accession Number: 20190321–5057.
Comments Due: 5 p.m. ET 4/11/19.

Docket Numbers: ER19–1399–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: § 205(d) Rate Filing: 2019–03–21_SA 3279 Johnson Junction-Ortonville Line MPFCA (J493 J526) MRES to be effective 3/7/2019.
Filed Date: 3/21/19.
Accession Number: 20190321–5093.
Comments Due: 5 p.m. ET 4/11/19.

Docket Numbers: ER19–1400–000.
Applicants: Emera Maine.
Description: § 205(d) Rate Filing: MPD OATT Formula Rates Revisions to be effective 6/1/2019.
Filed Date: 3/21/19.
Accession Number: 20190321–5095.
Comments Due: 5 p.m. ET 4/11/19.

Docket Numbers: ER19–1401–000.
Applicants: Niagara Mohawk Power Corporation, New York Independent System Operator, Inc.
Description: § 205(d) Rate Filing: 205 agreement filing between Niagara Mohawk and Greenway Conservnacy to be effective 2/19/2019.
Filed Date: 3/21/19.
Accession Number: 20190321–5114.
Comments Due: 5 p.m. ET 4/11/19.

Docket Numbers: ER19–1402–000.
Applicants: Coyote Ridge Wind, LLC.
Description: Baseline eTariff Filing: Coyote Ridge Wind, LLC Application for Market-Based Rate Authority to be effective 5/21/2019.
Filed Date: 3/21/19.
Accession Number: 20190321–5120.
Comments Due: 5 p.m. ET 4/11/19.

Docket Numbers: ER19–1403–000.
Applicants: Duke Energy Carolinas, LLC.
Description: Notice of Cancellation of Jurisdictional Transmission Service Agreements Nos. 414, et al. of Duke Energy Carolinas, LLC.
Filed Date: 3/21/19.
Accession Number: 20190321–5129.
Comments Due: 5 p.m. ET 4/11/19.

Take notice that the Commission received the following electric reliability filings:

Docket Numbers: RR19–5–000.
Applicants: North American Electric Reliability Corporation, Texas Reliability Entity, Inc.
Description: Joint Petition of the North American Electric Reliability Corporation and Texas Reliability Entity, Inc. for Approval of Amendments to the Texas Reliability Entity, Inc. Bylaws.
Filed Date: 3/20/19.
Accession Number: 20190320–5172.
Comments Due: 5 p.m. ET 4/10/19.

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 21, 2019.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2019–05897 Filed 3–27–19; 8:45 am]

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DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PL19–3–000]

Inquiry Regarding the Commission's Electric Transmission Incentives Policy

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of inquiry.

SUMMARY: In this Notice of Inquiry, the Federal Energy Regulatory Commission (Commission) seeks comments on the scope and implementation of its electric transmission incentives regulations and policy.

DATES: Initial Comments are due June 25, 2019, and Reply Comments are due July 25, 2019.

ADDRESSES: Comments, identified by docket number, may be filed electronically at *http://www.ferc.gov* in acceptable native applications and print-to-PDF, but not in scanned or picture format. For those unable to file electronically, comments may be filed by mail or hand-delivery to: Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE, Washington, DC 20426. The Comment Procedures section of this document contains more detailed filing procedures.

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1. In this Notice of Inquiry, the Commission seeks comment on the scope and implementation of its electric transmission incentives regulations and policy pursuant to section 1241 of the Energy Policy Act of 2005 (EPAct 2005),[1] codified as section 219 of the Federal Power Act (FPA),[2] which directed the Commission to use transmission incentives to help ensure reliability and reduce the cost of delivered power by reducing transmission congestion.[3] In 2006, the

[1] Energy Policy Act of 2005, Public Law 109–58, sec. 1261 *et seq.,* 119 Stat. 594 (2005).

[2] 16 U.S.C. 824s.

[3] The Commission is generally reevaluating its ROE policy in a separate Notice of Inquiry issued concurrently with this notice. *Inquiry Regarding the*

Continued

Commission implemented section 1241 by issuing Order No. 679,[4] which established the Commission's basic approach to transmission incentives and enumerated a series of potential incentives that the Commission would consider. The Commission subsequently refined its approach to transmission incentives in a 2012 policy statement (2012 Incentives Policy Statement), which provided guidance on the Commission's interpretation of Order No. 679 and its approach toward granting transmission incentives, but did not alter the Commission's regulations or Order No. 679's basic approach to granting transmission incentives.

2. It has been nearly 13 years since the Commission promulgated Order No. 679 and nearly seven years since the Commission issued a policy statement to provide additional guidance regarding its evaluation of applications for transmission incentives under FPA section 219.[5] In that time, there have been a number of significant developments in how transmission is planned, developed, operated, and maintained. In light of those developments and the records compiled in various incentives proceedings before the Commission, we believe that it is appropriate to seek comment from stakeholders on the scope and implementation of the Commission's transmission incentives policy and on how the Commission should evaluate future[6] requests for transmission incentives in a manner consistent with Congress's direction in section 219. Accordingly, through this Notice of Inquiry, the Commission solicits comments on variety of issues related to transmission incentives policy, as discussed in the following sections.

I. Background

A. FPA Section 219

3. Prior to 2005, the Commission considered requests for certain transmission incentives pursuant to FPA section 205.[7] In 2005, Congress amended the FPA to, as relevant here, add a new section 219.[8] Section 219(a) ''directed FERC to promulgate a rule providing incentive-based rates for electric transmission for the purpose of benefitting consumers through increased reliability and lower costs of power.'' [9] Section 219(b) included a number of specific directives in the required rulemaking, including that the Commission should:

- Promote reliable and economically efficient transmission and generation of electricity by promoting capital investment in the enlargement, improvement, maintenance, and operation of all facilities for the transmission of electric energy in interstate commerce, regardless of the ownership of the facilities; [10]
- provide a return on equity that attracts new investment in transmission facilities, including related transmission technologies; [11]
- encourage deployment of transmission technologies and other measures to increase the capacity and efficiency of existing transmission facilities and improve the operation of the facilities; [12] and
- allow the recovery of all prudently incurred costs necessary to comply with mandatory reliability standards issued pursuant to section 215 of the FPA,[13] and all prudently incurred costs related to transmission infrastructure development pursuant to section 216 of the FPA.[14]

4. Section 219(c) requires that the Commission shall, to the extent within its jurisdiction, provide for incentives to each transmitting utility or electric utility that joins a Transmission Organization [15] and ensure that any costs recoverable pursuant to this subsection may be recovered by such utility through the transmission rates charged by such utility or through the transmission rates charged by the Transmission Organization that provides transmission service to such utility.

5. Finally, section 219(d) provides that all rates approved pursuant to a rulemaking adopted pursuant to section 219 are subject to the requirement in FPA sections 205 and 206 that all rates, charges, terms, and conditions be just and reasonable and not unduly discriminatory or preferential.

B. Order Nos. 679 and 679–A

6. On July 20, 2006, the Commission issued Order No. 679, fulfilling the rulemaking requirement in section 219(a). The Commission explained that, to receive an incentive, an applicant must satisfy the statutory threshold set forth in section 219(a) by demonstrating that the transmission facilities for which it seeks incentives either ensure reliability or reduce the cost of delivered power by reducing transmission congestion. If the applicant satisfies that threshold, it must then demonstrate that there is a nexus between the incentive sought and the investment being made. The Commission stated that the section 219(a) threshold and the nexus test were to be applied on a case-by-case basis.[16] In its discussion of the nexus test, the Commission explained that the ''most compelling'' candidates for incentives are ''new projects that present special risks or challenges, not routine investments made in the ordinary course of expanding the system to provide safe and reliable transmission service.'' [17]

7. The Commission also described a variety of incentives that would potentially be available, including:

- Adders to a base ROE: (1) To compensate for the risks and challenges of a specific transmission project (ROE adder for risks and challenges); (2) for forming a transmission-only company (Transco adder); (3) for joining a regional transmission organization (RTO) or independent system operator (ISO) (RTO/ISO adder); or (4) for use of an advanced transmission technology (technology adder);
- recovery of 100 percent of prudently incurred costs of transmission facilities that are cancelled or abandoned due to factors that are beyond the control of the public utility (abandoned plant incentive);
- inclusion of 100 percent of construction work in progress (CWIP) in rate base (CWIP incentive);

Commission's Policy for Determining Return on Equity, 166 FERC ¶ 61,207 (2019). Below, *see infra* II.D.3, the Commission seeks comments regarding any interactions between the subject matters of these proceedings.

[4] *Promoting Transmission Investment through Pricing Reform,* Order No. 679, 116 FERC ¶ 61,057, *order on reh'g,* Order No. 679–A, 117 FERC ¶ 61,345 (2006), *order on reh'g,* 119 FERC ¶ 61,062 (2007).

[5] *Promoting Transmission Investment Through Pricing Reform,* 141 FERC ¶ 61,129 (2012) (2012 Incentives Policy Statement).

[6] During the pendency of this proceeding, the Commission will continue to evaluate incentive requests under Order No. 679, as informed by the 2012 Incentives Policy Statement, on a case-by-case basis.

[7] 16 U.S.C. 824d; *see also Maine Public Utilities Commission* v. *FERC,* 454 F.3d 278, 288 (D.C. Cir. 2006).

[8] Energy Policy Act of 2005, Public Law 109–58, sec. 1241.

[9] *California Pub. Utilities Comm'n* v. *FERC,* 879 F.3d 966, 970 (9th Cir. 2018).

[10] 16 U.S.C. 824s(b)(1).

[11] *Id.* 824s(b)(2).

[12] *Id.* 824s(b)(3).

[13] FPA section 215 addresses the Commission's role in ensuring electric reliability of the bulk power system. *Id.* 824o.

[14] *Id.* 824s(b)(4). FPA section 216 addresses designation of and siting of transmission facilities within National Interest Electric Transmission Corridors. *Id.* 824p.

[15] The Commission defines a Transmission Organization as a Regional Transmission Organization, Independent System Operator, independent transmission provider, or other transmission organization finally approved by the Commission for the operation of transmission facilities. 18 CFR 35.35(b)(2).

[16] Order No. 679, 116 FERC ¶ 61,057 at PP 22, 24.

[17] *Id.* PP 23, 60.

• hypothetical capital structures;
• accelerated depreciation for rate recovery; and
• recovery of prudently incurred pre-commercial operations costs as an expense or through a regulatory asset (regulatory asset incentive).

8. On December 22, 2006, in Order No. 679–A, the Commission granted rehearing in part and denied rehearing in part of Order No. 679.[18] The Commission largely affirmed the conclusions discussed in the previous paragraphs while refining certain other aspects of Order No. 679.

C. 2012 Policy Statement

9. On November 15, 2012, the Commission issued a policy statement to provide additional guidance regarding its evaluation of applications for transmission incentives under section 219. In particular, the Commission reframed the nexus test for applicants seeking the ROE adder for risks and challenges and eliminated the technology ROE adder.[19] The Commission stated that it would expect an applicant seeking an ROE adder for risks and challenges to demonstrate that: (1) The proposed transmission project faces risks and challenges that were not either already accounted for in the applicant's base ROE or addressed through risk-reducing incentives; (2) it is taking appropriate steps and using appropriate mechanisms to minimize its risk during transmission project development; (3) alternatives to the transmission project had been, or would be, considered in either a relevant transmission planning process or another appropriate forum; and (4) it commits to limiting the application of the ROE incentive to a cost estimate.[20]

10. The Commission provided several examples of categories of transmission projects that might satisfy the above-noted ''risks and challenges'' expectation, including transmission projects that would: (1) Relieve chronic or severe grid congestion that has had demonstrated cost impacts to consumers; (2) unlock location-constrained generation resources that previously had limited or no access to the wholesale electricity markets; or (3) apply new technologies to facilitate more efficient and reliable usage and operation of existing or new facilities.[21]

D. Order No. 1000

11. In 2011, the Commission issued Order No. 1000, which instituted certain transmission planning and cost allocation reforms for public utility transmission providers.[22] Notably, Order No. 1000 requires: (1) That each public utility transmission provider participate in a regional transmission planning process that produces a regional transmission plan; (2) that each public utility transmission provider amend its open access transmission tariff to describe procedures that provide for the consideration of transmission needs driven by public policy requirements in the local and regional transmission planning processes; (3) the elimination from Commission-approved tariffs and agreements a federal right of first refusal for certain new transmission facilities; and (4) coordination among neighboring transmission planning regions to identify potential interregional transmission facilities.[23]

12. The various regional transmission planning processes implemented in response to Order No. 1000 became effective between 2013 and 2015, after the Commission issued the 2012 Incentives Policy Statement. The transmission planning regions have all now conducted at least one iteration of their regional transmission planning process, with some having conducted as many as three. Although Order No. 1000 does not directly address the Commission's obligations under section 219, the aforementioned reforms had significant implications for how transmission facilities are planned and developed.

II. Subject of the Notice of Inquiry

13. As part of ensuring that the Commission continues to meet our statutory obligations, the Commission, on occasion, engages in public inquiry to gauge whether there is a need to add to, modify, or eliminate certain policies or regulatory requirements. It has now been nearly 13 years since the Commission issued Order No. 679. During that time, the landscape for planning, developing, operating, and maintaining transmission infrastructure has changed considerably. Those changes include the Commission's issuance of Order No. 1000, an evolution in the generation mix and the number of new resources seeking transmission service, shifts in load patterns, and an increased emphasis on the reliability of transmission infrastructure. The Commission is issuing this NOI to obtain information that will assist us in evaluating our transmission incentives policy and ensuring that the policy continues to satisfy our obligations under section 219 of the FPA. The following sections present a series of questions regarding the Commission's transmission incentives policy. Commenters are encouraged to respond to these questions in detail and, where appropriate, provide specific examples to support their comments and recommendations. Commenters need not answer every question below.

A. Approach to Incentive Policy

14. The Commission in Order No. 679 established a requirement that each applicant demonstrate that there is a nexus between the incentive sought and the risks and challenges of the investment being made.[24] The Commission is considering whether the ''risks and challenges'' approach remains the most effective means of complying with Congress's directives in section 219. To that end, the Commission is seeking comments on how it should approach evaluating requests for incentives, including upon the current risks and challenges approach as well as upon other potential approaches, including, but not limited to, the alternative approaches discussed below. In addressing these approaches, commenters should consider how each approach could or should be implemented and the potential benefits and drawbacks of each approach.

1. Incentives Based on Project Risks and Challenges

15. As noted, the Commission in Order No. 679 established a requirement that each applicant must demonstrate that there is a nexus between the incentive sought and the risks and challenges of investment being made. Although the 2012 Incentives Policy Statement reframed this standard, it remains central to the Commission's approach in evaluating incentive applications.

(Q 1) Should the Commission retain the risks and challenges framework for evaluating incentive applications?

[18] Order No. 679–A, 117 FERC ¶ 61,345.

[19] The Commission stated that, with respect to possible ROE incentives, it would prospectively consider advanced technologies only as part of an application for an ROE adder for risks and challenges. 2012 Incentives Policy Statement, 141 FERC ¶ 61,129 at P 23.

[20] *Id.* PP 20–28.

[21] *Id.* P 21. The Commission noted these examples of types of transmission projects that might qualify for an ROE adder for risks and challenges was not an exhaustive list. *Id.* P 22.

[22] *Transmission Planning and Cost Allocation by Transmission Owning and Operating Public Utilities,* Order No. 1000, 136 FERC ¶ 61,051 (2011), *order on reh'g,* Order No. 1000–A, 139 FERC ¶ 61,132, *order on reh'g and clarification,* Order No. 1000–B, 141 FERC ¶ 61,044 (2012), *aff'd sub nom. S.C. Pub. Serv. Auth.* v. *FERC,* 762 F.3d 41 (D.C. Cir. 2014).

[23] *See* Order No. 1000, 136 FERC ¶ 61,051 at PP 4–6, 8.

[24] *See* Order No. 679, 116 FERC ¶ 61,057 at PP 26.

(Q 2) Is providing incentives to address risks and challenges an appropriate proxy for the expected benefits brought by transmission and identified in section 219 (*i.e.,* ensuring reliability or reducing the cost of delivered power by reducing transmission congestion)? If risks and challenges are not a useful proxy for benefits, is it an appropriate approach for other reasons?

(Q 3) The Commission currently considers risks both in calculating a public utility's base ROE and in assessing the availability and level of any ROE adder for risks and challenges. Is this approach still appropriate? If so, which risks are relevant to each inquiry, and, if they differ, how should the Commission distinguish between risks and challenges examined in each inquiry?

2. Incentives Based on Expected Project Benefits

16. The Commission could instead evaluate incentive requests based on the transmission project's potential to achieve benefits related to reliability and reductions in the cost of delivered power by reducing transmission congestion.[25]

(Q 4) Would directly examining a transmission project's expected benefits improve the Commission's transmission incentives policy, consistent with the goals of section 219? Are there drawbacks to this approach, particularly relative to the current risks and challenges framework?

(Q 5) If the Commission adopts a benefits approach, should it lay out general principles and/or bright line criteria for evaluating the potential benefits of a proposed transmission project? If so, how should the Commission establish the principles or criteria?

(Q 6) How would a direct evaluation of expected benefits, instead of using risks and challenges as a proxy, impact certainty for project developers?

(Q 7) Should transmission projects with a demonstrated likelihood of benefits be awarded incentives automatically? How could the Commission administer such an approach?

17. Although section 219 requires the Commission to consider performance-based ratemaking and to ensure that incentive-based rates are just and reasonable,[26] Congress did not require the Commission to base an incentive award on a specific level of benefits, either on its own or relative to the costs of the project(s) in question. Order No. 679 considered but rejected such a requirement.[27] The Commission is examining whether and how it might consider benefits relative to costs when evaluating a request for incentives.

(Q 8) If the Commission grants incentives based on expected benefits, should the level of the incentive vary based on the level of the expected benefits relative to transmission project costs? If so, how should the Commission determine how to vary incentives based on the size of benefits?

(Q 9) Should incentives be conditioned upon meeting benefit-to-cost benchmarks, such as a benefit-cost ratio? If so, what benefit-to-cost ratios should be used?

(Q 10) Should incentives be based only on benefit-to-cost estimates or should the Commission condition the incentives on evidence that that those benefit-to-cost estimates were realized?

(Q 11) If an incentive is conditioned upon a transmission developer meeting benefit-to-cost benchmarks, what types of benefits and costs should a transmission developer include, and the Commission consider to support requests for such incentives? Should there be measurement and verification, and if so, over what time period? If expected benefits do not accrue, should the incentive be revoked?

3. Incentives Based on Project Characteristics

18. As an alternative to a direct examination of expected benefits, the Commission could use transmission project characteristics as a proxy for expected benefits. These project characteristics could include, for example, transmission projects located in regions with persistent needs, interregional transmissions projects, or transmission projects that unlock constrained resources. Such an approach could also consider granting incentives based upon inclusion of specific transmission technologies.[28]

(Q 12) How, if at all, would examining transmission projects' characteristics in evaluations of transmission incentives applications improve the Commission's transmission incentives policy and achieve the goals of section 219? Are there drawbacks to this approach, particularly relative to the current risks and challenges framework? Would this approach result in different outcomes, as compared to the current risks and challenges approach for granting incentives?

(Q 13) If the Commission adopts an approach based on project characteristics, should it lay out general principles and/or bright line criteria for identifying or evaluating those characteristics?

(Q 14) If so, how should applicable criteria be established, and, in cases where more than one criterion applies, how should they be evaluated in combination?

(Q 15) How would an approach based on project characteristics impact certainty for project developers, particularly relative to the current risks and challenges framework?

(Q 16) Should transmission projects with certain characteristics be awarded incentives automatically? How could the Commission administer such an approach?

B. Incentive Objectives

19. Prior to 2005, the Commission considered requests for certain transmission incentives pursuant to FPA section 205. As noted, section 219 directs the Commission to establish a transmission incentives policy that benefits consumers by ensuring reliability and reducing the cost of delivered power by reducing transmission congestion.[29] In addition, section 219 directs the Commission to promote certain specified goals—namely, promoting capital investment in the enlargement, improvement, maintenance, and operation of jurisdictional transmission facilities; providing an ROE that attracts investment in new transmission facilities and technologies; encouraging deployment of technologies and other measures that enhance the capacity, efficiency, and operation of existing transmission facilities; incentivizing transmission-owning public utilities to join an RTO; and allowing recovery of certain types of prudently incurred costs.[30]

20. This section seeks comment on what the Commission should incentivize in order to satisfy Congress's directives in section 219. In particular, we seek comment on what expected benefits or project characteristics warrant incentives. In discussing each benefit or project characteristic that the Commission should be incentivizing,

[25] Potential examples of these benefits and their potential relationship to types of transmission projects are described below in Section II.B.1–2.

[26] 16 U.S.C. 824s(a), (d).

[27] Order No. 679, 116 FERC ¶ 61,057 at P 65. The Commission notes that the 2012 Incentives Policy Statement directed applicants to limit ROE adder for risks and challenges to a cost estimate and demonstrate the use of risk reduction techniques. 2012 Incentives Policy Statement, 141 FERC ¶ 61,129 at PP 24, 28–29.

[28] Potential examples of these characteristics and their potential relationship to types of transmission projects are described below in Section II.B.3–12.

[29] 16 U.S.C. 824s(a).

[30] *Id.* 824s(b)–(c).

commenters should consider: (1) How the Commission should define the benefit or project characteristics in question; (2) whether the Commission can quantify or measure the benefits or project characteristics, where applicable, how it should do so; (3) how the Commission should incentivize the benefit or project characteristics if it decides to do so; and (4) the legal basis, extent, and nature of the incentives. For ROE adder incentives, the Commission is interested in how many basis points would be appropriate for a given incentive. The Commission is also interested in whether and how incentives other than ROE adders could encourage facilities with benefits or project characteristics, including those outlined below.

21. The sections below enumerate certain benefits or project characteristics that commenters may wish to address, although commenters need not limit their comments to these benefits or project characteristics. Commenters that choose to comment on the benefits and project characteristics discussed below should consider both the questions listed in the previous paragraph as well as the specific questions accompanying the following benefits or project characteristics.

1. Reliability Benefits

22. Benefitting customers by ensuring reliability was one of Congress's core objectives in section 219. Transmission owners are already required to address many facets of reliability through compliance with the North American Electric Reliability Corporation (NERC) reliability standards and various other planning criteria. Nevertheless, the Commission could potentially tailor incentives to promote reliability transmission projects that significantly enhance transmission reliability above and beyond what is required by the NERC reliability standards or other planning criteria.

(Q 17) Should the Commission tailor incentives to promote these types of projects based on their expected reliability benefits? If so, how should the Commission differentiate these projects from others required to meet reliability standards?

(Q 18) Are there specific reliability benefits or project characteristics that could merit such an approach?

(Q 19) If the Commission tailored incentives for reliability benefits, how should the Commission measure the expected enhancement to transmission reliability? Should there be a threshold or bright line test applied? If so, how?

23. One way in which additional transmission facilities may further encourage reliability is by expanding access to essential reliability services, which can, among other things, allow delivery of sufficient resources to support and stabilize grid frequency during disturbances and ensure adequate voltage control and reactive power capability.

(Q 20) Should the Commission incentivize transmission facilities that expand access to essential reliability services, such as frequency support, ramping capability, and voltage support?

(Q 21) If so, how should the Commission assess and measure whether transmission projects expand access to essential reliability services?

2. Economic Efficiency Benefits

24. Transmission projects can promote economic efficiency by reducing congestion, which allows efficient dispatch of resources, facilitating the interconnection of additional generation, and facilitating the transmission of additional generation to load centers.[31] The Commission could tailor incentives to promote transmission projects that accomplish either of these two outcomes.

(Q 22) Should the Commission tailor incentives to promote projects that accomplish the outcomes of reducing congestion or facilitating access to additional generation?

(Q 23) Should the Commission establish bright line metrics, such as a specified level of reduction in average production costs, to determine whether a transmission project merits incentives?

(Q 24) Should the Commission consider incentivizing transmission projects that are scaled to more efficiently facilitate interconnection of, or transmission to, additional generation? What other measurable economic efficiency benefits should be considered a bright line metric for the purposes of economic efficiency?

(Q 25) How should the applicable bright line criteria be established, and, in cases where more than one criterion applies, how should they be evaluated in combination?

3. Persistent Geographic Needs

25. Section 219's objective of promoting the development of transmission facilities that ensure reliability and/or reduce congestion may be particularly important in regions of the country that have experienced chronic, long-term congestion or require operating procedures in place to address long-term reliability issues.

(Q 26) Should the Commission utilize an incentives approach that is based on targeting certain geographic areas where transmission projects would enhance reliability and/or have particular economic efficiency benefits? If so, how should the relevant geographic areas be identified and defined? What entity (*e.g.,* the Commission, RTOs/ISOs, state regulators, other stakeholders) should designate such areas?

(Q 27) What criteria should be used to define such geographic areas? Procedurally, how should such geographic areas be determined, monitored, and updated?

(Q 28) Should the relevant geographic areas be defined on an *ex ante* basis and/or should the transmission developer have the burden of demonstrating that the relevant transmission project falls within a geographic region that has an acute need for transmission?

4. Flexible Transmission System Operation

26. As the generation mix changes and load patterns evolve, the requirements of the transmission system will also change. Flexibility characteristics of the transmission system, such as increased line rating precision, greater power flow control, and technologies, including energy storage,[32] may be able to facilitate the transmission system's ability to respond to changing circumstances.

(Q 29) How can flexibility characteristics improve the operation of the transmission system?

(Q 30) Should the Commission incentivize flexibility characteristics and, if so, how should it do so?

(Q 31) How could the Commission define ''flexibility'' in this context?

5. Security

27. Enhancing the physical and cyber-security of existing jurisdictional transmission facilities, including new facilities, can improve the facilities' ability to contribute to the reliability of the bulk power system. Addressing the security of the transmission system is a priority of the Commission.[33]

[31] *See* Order No. 679, 116 FERC ¶ 61,057 at P 25; *see also* 2012 Incentives Policy Statement, 141 FERC ¶ 61,129 at P 21.

[32] *See W. Grid Dev., LLC,* 130 FERC ¶ 61,056, at PP 2, 43–46, *order denying reh'g,* 133 FERC ¶ 61,029 (2010).

[33] *See, e.g., Notice of Technical Conference,* AD19–12–000, at 1 (Feb. 4, 2019), and *Supplemental Notice of Technical Conference,* AD19–12–000, at 1 (Mar. 1, 2019); *Supply Chain Risk Management Reliability Standards,* Order No. 850, 83 FR 53992 (Oct. 26, 2018), 165 FERC ¶ 61,020 (2018); *Cyber Security Incident Reporting*

Continued

(Q 32) Should the Commission incentivize physical and cyber-security enhancements at transmission facilities? If so, what types of security investments should qualify for transmission incentives? What type of incentive(s) would be appropriate?

(Q 33) How should the Commission define ''security'' in the context of determining eligibility for incentive treatment? For example, should the Commission define security based on specific investments or based on performance of delivering increased security of the transmission system?

6. Resilience

28. The Commission has proposed to define ''resilience'' as ''the ability to withstand and reduce the magnitude and/or duration of disruptive events, which includes the capability to anticipate, absorb, adapt to, and/or rapidly recover from such an event.'' [34] So defined, enhancements to the resilience of the transmission system may enhance its overall reliability, potentially bringing investments in resilience within the Commission's mandate under section 219.

(Q 34) Should transmission projects that enhance resilience be eligible for incentives based upon their reliability-enhancing attributes?

(Q 35) If so, how could the Commission consider or measure the benefits of an individual project towards grid resilience?

(Q 36) If the Commission were to grant incentives for measures that enhance the resilience of the transmission system, what incentive(s) would be appropriate?

7. Improving Existing Transmission Facilities

29. Section 219(b)(3) directs the Commission to encourage investments in technologies and other measures that increase the capacity and efficiency of existing transmission facilities and improve the operation of those facilities.[35] Such investments could include advanced management software or application of technologies, such as energy storage, in order to improve utilization of existing transmission system assets.

(Q 37) How should the Commission incentivize the deployment of technologies and other measures to enhance the capacity, efficiency, and operation of the transmission grid? How can the Commission identify and quantify how a technology or other measure contributes to those goals? Please provide examples.

(Q 38) Can the Commission distinguish between incremental improvements that merit an incentive and those maintenance-related expenses that a transmission owner would make in its ordinary course of business?

(Q 39) How should a transmission owner seeking this type of incentive demonstrate increases or improvements in the capabilities or operations of existing transmission facilities?

(Q 40) Should the Commission provide a stand-alone, transmission technology-related incentive? If the Commission provides a stand-alone transmission technology-related incentive, what criteria should be employed for a technology to be considered as meriting an incentive? Should the Commission periodically revisit the definition of an eligible technology?

(Q 41) Certain utility costs, such as those associated with grid management technology, including dynamic line rating technology, are typically recovered through operations and maintenance expenses within cost-of service rates. For such costs, should the Commission, instead, consider inclusion of these expenses in rate base as a regulatory asset? If so, what costs should be eligible for such treatment and over what period should they be amortized?

(Q 42) Are there ways the Commission could incentivize RTOs/ISOs to adopt better grid management technologies and/or other technologies to improve the efficiency of individual transmission assets to promote efficient use of the transmission system and improved market performance?

(Q 43) Should the Commission interpret section 219(b)(3) to encourage improvements that are not historically considered part of the transmission system, such as, for example, software upgrades, technologies that allow for faster ramping, or other innovative measures that achieve the same goals as new transmission facilities? What types of incentives could increase the adoption of these technologies? Are there forms of performance-based ratemaking with respect to transmission that the Commission should explore? If so, describe such alternative ratemaking structures.

8. Interregional Transmission Projects

30. An interregional transmission project [36] has the potential to improve interregional coordination, help to eliminate seams issues, and provide more efficient power flow among regions. Although Order No. 1000 required coordination among neighboring transmission planning regions to identify potential interregional transmission facilities, such projects have been scarce to date.

(Q 44) Should the Commission use incentives to encourage the development of interregional transmission projects? How, if at all, would any such incentive interact with Order No. 1000's reforms?

(Q 45) If the Commission should use incentives to encourage interregional transmission projects, should all interregional projects be eligible or should it be based on some other criteria? How should the Commission consider the benefits of an individual interregional transmission project?

(Q 46) If the Commission were to grant incentives for interregional transmission projects, what incentive(s) would be appropriate?

9. Unlocking Locationally Constrained Resources

31. The 2012 Incentives Policy Statement provided that ''projects that unlock location constrained generation resources that previously had limited or no access to the wholesale electricity markets'' may be eligible for incentives.[37] In subsequent years, interconnection queues in many regions of the country have expanded considerably, with many of the potential resources clustered in specific geographic areas with limited transmission access.[38]

(Q 47) Should the Commission use incentives to encourage the development of transmission projects that will facilitate the interconnection of large amounts of resources?

(Q 48) If so, what metrics could the Commission consider when evaluating whether a transmission project

Reliability Standards, Order No. 848, 83 FR 36727 (July 31, 2018), 164 FERC ¶ 61,033 (2018); *see also Extraordinary Expenditures Necessary to Safeguard National Energy Supplies,* 96 FERC ¶ 61,299 (2001) (providing assurances, following the events of September 11, 2001, that the Commission will approve applications to recover prudently incurred costs necessary to safeguard the reliability and security of the nation's energy supply infrastructure).

[34] *Grid Reliability and Resilience Pricing and Grid Resilience in Regional Transmission Organizations and Independent System Operators,* 162 FERC ¶ 61,012, at P 23 (2018).

[35] 16 U.S.C. 824s(b)(3).

[36] Order No. 1000 defined an interregional transmission facility as one that is physically located in two or more neighboring transmission planning regions. Order No. 1000, 136 FERC ¶ 61,051 at P 63.

[37] 2012 Incentives Policy Statement, 141 FERC ¶ 61,129 at P 21.

[38] For instance, Midcontinent Independent System Operator, Inc., as of February 28, 2019, had 70.3 GWs of active projects in its interconnection queue. *See https://cdn.misoenergy.org/GIQ%20Web%20Overview272899.pdf.*

facilitates the interconnection of generation?

(Q 49) Should such an incentive focus on resources already in the queue, a region's potential for new resources, or some other measure? How could the Commission evaluate the potential for further resource development in a particular geographic area?

10. Ownership by Non-Public Utilities

32. Section 219(b)(1) encourages the Commission to facilitate capital investment in transmission infrastructure, regardless of the ownership of those facilities.

(Q 50) Are there barriers to non-public utilities' ownership of transmission facilities?

(Q 51) Should the Commission consider granting incentives to promote joint ownership arrangements with non-public utilities and, if so, how?

11. Order No. 1000 Transmission Projects

33. The Commission has considered whether it could reduce transmission developer risk by granting blanket pre-approval (*i.e.,* a rebuttable presumption) of three risk-reducing incentives for transmission projects selected in a regional transmission plan for purposes of cost allocation: CWIP, abandoned plant, and regulatory asset treatment.[39]

(Q 52) Should these or other incentives be granted automatically for transmission projects selected in a regional transmission plan for purposes of cost allocation?

(Q 53) If so, what specific incentives are appropriate for such automatic treatment and how should such incentives be designed?

34. Following Order No. 1000, the Commission has exercised it discretion to grant certain incentives to non-incumbent transmission developers under section 205 of the FPA, in order to further the public policy goal of placing non-incumbent transmission developers on a level playing field with incumbent transmission owners in Order No. 1000 regional transmission planning processes.[40]

(Q 54) Should the Commission continue to use certain incentives to seek to place non-incumbent transmission developers on a level playing field with incumbent transmission owners in Order No. 1000 regional transmission planning processes? If so, should the Commission consider requests for such incentives under section 205, or should the Commission consider requests for such incentives for non-incumbent transmission owners under section 219?

12. Transmission Projects in Non-RTO/ISO Regions

35. Applications for transmission incentives to date have almost exclusively been for transmission projects proposed to be developed within RTOs/ISOs.

(Q 55) Are there factors that discourage developers of transmission projects in non-RTO/ISO regions from seeking incentives?

(Q 56) What, if any, additional types of incentives could appropriately encourage the development of transmission in non-RTO/ISO regions?

C. Existing Incentives

36. The Commission also seeks comment on the types of incentives that it has awarded to date, including ROE adder incentives based on risks and challenges, discussed above. Commenters should address whether the incentive itself remains relevant and appropriate. In addition, commenters should consider whether the goals underlying the incentive could be incentivized more efficiently. For example, if an incentive is currently awarded as ROE basis point adder, Commenters should also address whether a non-ROE incentive would be more appropriate. Although we invite comment on all current incentives, we specifically seek comment on the following incentives.

1. ROE-Adder Incentives

a. Transmission-Only Companies

37. In Order No. 679, the Commission found that transmission-only companies (*i.e.,* Transcos) warranted incentives because they were willing and able to invest in transmission based on a proven and encouraging track record of existing Transcos' investment in transmission infrastructure and their expansion plans. The Commission explained that this record of investment was due to the stand-alone nature of these entities—''[b]y eliminating competition for capital between generation and transmission functions and thereby maintaining a singular focus on transmission investment, the Transco model responds more rapidly and precisely to market signals indicating when and where transmission investment is needed.''[41] Further, the Commission found that ''Transcos have no incentive to maintain congestion in order to protect their owned generation''; ''Transcos' for-profit nature, combined with a transmission-only business model, enhances asset management and access to capital markets and provides greater incentives to develop innovative services''; and due to ''their stand-alone nature, Transcos also provide non-discriminatory access to all grid users,'' and supported regional planning goals.[42] In subsequent decisions regarding the Transco adder, the Commission has addressed challenges presented by maintaining an appropriate threshold for eligibility with respect to necessary independence.[43]

(Q 57) Does the Transco business model continue to provide sufficient benefits to merit transmission incentives? What information should an entity seeking a Transco incentive provide to demonstrate sufficient benefits?

(Q 58) Should the Transco incentive remain available to Transcos that are affiliated with a market participant? If so, how should the Commission evaluate whether a Transco is sufficiently independent to merit an incentive?[44]

(Q 59) Should a Transco incentive be awarded on a project-by-project basis?

(Q 60) Should the Transco incentive exclude assets that a Transco buys, rather than develops?

b. RTO/ISO Participation

38. Section 219(c) requires that the Commission provide incentives to transmitting utilities or electric utilities that join an RTO or ISO. In Order No. 679, the Commission found that ROE incentives should be granted to utilities that ''join and/or continue to be a member of an ISO, RTO, or other Commission-approved Transmission Organization.''[45] The Commission declined to make a finding on the appropriate size or duration of the

[39] *See Notice Inviting Post-Technical Conference Comments,* Docket No. AD16–18–000, at 2 (Aug. 3, 2016).

[40] *See, e.g., PJM Interconnection, L.L.C.,* 155 FERC ¶ 61,097, at P 175 (2016), *order on reh'g,* 158 FERC ¶ 61,060 (2017); *ATX Sw., LLC,* 152 FERC ¶ 61,193, at PP 18, 23 (2015); *Transource Kan., LLC,* 151 FERC ¶ 61,010, at P 19 (2015), *order on reh'g,* 154 FERC ¶ 61,011, at P 12 (2016), *petition dismissed sub nom, Kan. Corp. Comm'n* v. *FERC,* 881 F.3d 924 (D.C. Cir. 2018); *Xcel Energy Sw. Transmission Co., LLC,* 149 FERC ¶ 61,182, at P 33 (2014).

[41] Order No. 679, 116 FERC ¶ 61,057 P 224.

[42] *Id.* PP 224–227.

[43] *See, e.g., Consumers Energy Co.* v. *Int'l Transmission Co.,* 165 FERC ¶ 61,021, at PP 67–73 (2018) (reducing a previously granted Transco ROE adder due to reduced independence); *NextEra Energy Transmission N.Y. Inc.,* 162 FERC ¶ 61,196, at PP 51–52 (2018) (finding that the applicants relationship with affiliated market participants did not prevent it from meeting the independence standard for a Transco).

[44] *C.f. Consumers Energy Co.* v. *Int'l Transmission Co.,* 165 FERC ¶ 61,021 at PP 67–74 (granting a complaint in part to reduce Transco adders based upon the Commission's finding that the Transco was now less independent).

[45] Order No. 679, 116 FERC ¶ 61,057 at P 326.

incentive.[46] Subsequently, the U.S. Court of Appeals for the Ninth Circuit found that the Commission's granting of an RTO participation incentive to Pacific Gas and Electric Co. (PG&E) was arbitrary and capricious in its application of Order Nos. 679 and 679–A because the Commission failed to provide a reasoned explanation for granting the incentive in light of the Commission's longstanding policy that incentives should only be granted to induce future behavior.[47]

(Q 61) Should the Commission revise the RTO-participation incentive?

(Q 62) Should the Commission consider providing incentives other than ROE adders for utilities that join RTO/ISOs, such as the automatic provision of CWIP in rate base or the abandoned plant incentive [48] for all transmission-owning members of an RTO/ISO? If so, what other types of incentives would be appropriate?

(Q 63) If the Commission continues to provide ROE adders for RTO/ISO participation, what is an appropriate level for an ROE adder?

(Q 64) Should the RTO-participation incentive be awarded for a fixed period of time after a transmission owner joins an RTO or ISO?

(Q 65) Should the RTO-participation adder be awarded on a project-specific basis?

(Q 66) In Order No. 679, the Commission found that ''the basis for the incentive is a recognition that benefits flow from membership in such organizations and the fact that continuing membership is generally voluntary.'' [49] Should voluntary participation remain a requirement for receiving RTO/ISO incentives?

c. Advanced Technology

39. Order No. 679, the Commission considered the use of advanced technologies (1) as part of an overall nexus, accounting for risks and challenges, and (2) where an applicant sought a stand-alone incentive ROE adder based on advanced technology utilization. The Commission discontinued a stand-alone advanced transmission technologies incentive in the 2012 Incentives Policy Statement, but concluded that some transmission enhancement projects might represent good candidates for an ROE adder for risks and challenges.[50] To date, there have been few applications seeking an ROE adder related to advanced technology.

(Q 67) Why have few transmission developers sought transmission incentives for the adoption of advanced technology?

(Q 68) Do NERC reliability standards affect the willingness of transmission developers to enhance existing transmission facilities by deploying new technologies because of concerns these technologies may increase the risk of standards violations?

(Q 69) Are there any types of transmission incentives that could better encourage deployment of new technologies? If so, please describe them.

2. Non-ROE Transmission Incentives

a. Regulatory Asset/Deferred Recovery of Pre-Commercial Costs and CWIP

40. In Order No. 679, the Commission recognized that some transmission incentives—such as including 100 percent of CWIP in rate base and recovery of 100 percent of pre-commercial costs as an expense or as a regulatory asset—reduce the financial and regulatory risks associated with transmission investment.[51]

(Q 70) Should the Commission continue to provide regulatory asset treatment and CWIP as incentives? Should these incentives be granted automatically to certain types of transmission projects? If so, how would the Commission determine what types of transmission projects?

(Q 71) Should the costs of unsuccessful Order No. 1000 proposals be recoverable through regulatory asset and deferred pre-commercial cost recovery incentives? If so, what costs are appropriate for recovery?

b. Hypothetical Capital Structure

41. A hypothetical capital structure can serve as an incentive by providing cash flow predictability and a higher rate of return where public utilities have a higher amount of debt than in the hypothetical capital structure. The Commission largely relies on a public utility's actual capitalization in setting its rate of return, but recognized in Order No. 679 that an overly rigid approach to evaluating a proposed capital structure could be a disincentive to investment in new transmission projects.[52] Accordingly, the Commission allows applicants to file an overall rate of return based on a hypothetical capital structure, and gives them the flexibility to refinance or employ different capitalizations as may be needed to maintain the viability of new capacity additions. The Commission currently approves hypothetical capital structures during the construction period, chiefly for small or new transmission owners for which the new transmission project would cause substantial fluctuations in their capital structure during construction. The Commission has allowed a hypothetical capital structure to extend for the life of the transmission project for non-public utilities without traditional capital structures.

(Q 72) Should the Commission continue to utilize hypothetical capital structures as a transmission incentive? If so, what entities should be eligible to apply for a hypothetical capital structure?

(Q 73) Have hypothetical capital structures been effective in reducing the overall cost of debt by rendering the capital structure more predictable?

(Q 74) In what circumstances, if any, should hypothetical capital structure incentives granted to an entity also be authorized for that entity's yet-to-be formed affiliates?

(Q 75) Under what circumstances, if any, should hypothetical capital structures extend beyond the construction period?

(Q 76) Should the Commission provide a consistent hypothetical structure (*e.g.,* 50 percent debt and 50 percent equity)? Alternatively, should the Commission cap the equity percentage at some upper limit (*e.g.,* 50 percent)?

c. Recovery of the Cost of Abandoned Plant

42. Even prior to Order No. 679, the Commission granted recovery of 100 percent of the prudently incurred costs of transmission facilities that are cancelled or abandoned due to factors beyond the control of the public utility (the abandoned plant incentive) as a way of mitigating certain risks that are

[46] *Id.* P 331.

[47] *Cal. Pub. Util. Comm'n* v. *FERC,* 879 F.3d at 974–75, 977; *see also Pacific Gas and Electric Co.,* 164 FERC ¶ 61,121 (2018) (establishing a briefing schedule to supplement the record on the specific questions raised on remand).

[48] The abandoned plant incentive allows recovery of 100 percent of the prudently incurred costs of transmission facilities that are cancelled or abandoned due to factors beyond the control of the public utility.

[49] Order No. 679, 116 FERC ¶ 61,057 at P 331.

[50] 2012 Incentives Policy Statement, 141 FERC ¶ 61,129 at P 21 & nn.27–28.

[51] These incentives have routinely been granted to applicants who do not yet have customers from which to recover pre-commercial costs, including costs associated with Order No. 1000 proposals by nonincumbent transmission developers. The Commission has reasoned that doing so is necessary to level the playing field with incumbent transmission owners, who can already recover such costs from ratepayers. *See Ne. Transmission Dev., LLC,* 155 FERC ¶ 61,097, at P 41 (2016), *order on reh'g,* 158 FERC ¶ 61,060 (2017); *Xcel Energy Sw. Transmission Co., LLC,* 149 FERC ¶ 61,182 at P 33.

[52] Order No. 679, 116 FERC ¶ 61,057 at PP 123, 131.

outside the control of the developer.[53] Order No. 679 stated that transmission developers may be entitled to recover 100 percent of the prudently incurred costs related to certain transmission facilities if such facilities are later abandoned or cancelled.[54]

(Q 77) Should the Commission grant the abandoned plant incentive automatically, rather than on a case-by-case basis? Under what circumstances might an automatic award of the abandoned plant incentive be appropriate?

(Q 78) How, if at all, could the Commission grant the abandoned plant incentive without encouraging transmission developers to pursue unnecessarily risky transmission projects or take unnecessary risks in transmission development? Could such behavior be reduced if the developer shared some risk associated with the abandonment, *e.g.,* 10 percent of abandonment costs? If so, what level of developer risk is appropriate?

(Q 79) How should the Commission evaluate whether the costs of an abandoned facility were prudently incurred?

d. Accelerated Depreciation

43. In Order No. 679, the Commission included accelerated depreciation as a potential transmission incentive reasoning that this incentive increases cash flow, providing an incentive to undertake transmission projects.

(Q 80) Should the Commission continue to consider accelerated depreciation as an incentive?

(Q 81) Does the accelerated deprecation incentive provide meaningful benefits to transmission developers?

(Q 82) Should the Commission grant an accelerated depreciation incentive with a generic depreciation period or continue to determine such a period on a case-by-case basis?

D. Mechanics and Implementation

1. Duration of Incentives

44. The Commission is considering whether incentives should be revisited if there is a material modification to the project or a significant change in the expected benefits. Please comment on whether particular types of incentives should automatically sunset and under what certain circumstances.

(Q 83) Should the Commission limit the duration of a granted transmission incentive? If so, should this limit be based on the type of incentive granted?

(Q 84) How should the Commission structure a durational component to its incentives? For example, should the Commission provide that transmission incentives automatically sunset after a certain period? [55]

(Q 85) Should the Commission provide that a transmission incentive can be eliminated or modified upon a material change to the transmission project? How would such an elimination or modification be implemented? What should constitute such a material change? How would the Commission and interested parties be informed of such a material change?

(Q 86) Should there be a process of measurement and verification (or audit) to determine if the expected benefits accrued to consumers?

(Q 87) If so, how should measurement and verification take place and over what time period?

(Q 88) Should the Commission consider eliminating an incentive if the project fails to realize its anticipated benefits?

(Q 89) Should there be reporting on projects' expected benefits compared to results, and over what time period?

2. Case-by-Case vs. Automatic Approach in Reviewing Incentive Applications

45. In Order No. 679, the Commission stated that the section 219(a) threshold that a transmission project must ensure reliability or reduce the cost of delivered power by reducing transmission congestion and the nexus test are not prescriptive by design, and are intended to be applied on a case-by-case basis.

(Q 90) What are the benefits and drawbacks of granting incentives on a case-by-case basis, as compared to being granted automatically, with or without related threshold criteria? Would an automatic approach based on established threshold criteria provide additional certainty? If so, how?

(Q 91) If so, how could the Commission determine which incentives should be awarded automatically?

(Q 92) If the existing case-by-case approach to incentives is retained, could it be improved? If so, how?

3. Interaction Between Different Potential Incentives in Determining Correct Level of ROE Incentives

46. In determining whether an applicant has satisfied the nexus test, the Commission evaluates the interrelationship between the requested incentives.[56] The Commission, however, to date has provided limited guidance regarding what level of transmission incentives should be provided or how to ensure that the combination of transmission incentives provided is appropriate and produces rates that are just and reasonable.[57]

(Q 93) Should the Commission establish a more formulaic framework for determining the appropriate level and combination of incentives? If such a framework is created, what elements should it include?

(Q 94) Alternatively, if the Commission continues evaluating incentive requests on a case-by-case basis, how could the Commission provide more detailed explanations in individual cases to better describe how it derives the appropriate level and combination of incentives? If so, what elements should such explanations provide?

(Q 95) The Commission's current policy is that the total ROE may not exceed the zone of reasonableness. If a transmission project qualifies for ROE incentives, should there be an upper limit or range that the total ROE cannot exceed? If so, what is the appropriate limit or range? Should this vary based on how the Commission sets base ROE? [58]

4. Bounds on ROE Incentives

47. The benefits of various transmission projects may vary substantially and, in some cases, be difficult to compare. Particularly given the current risks and challenges framework, the Commission has maintained discretion to determine the level of any granted incentive ROE rather than establishing pre-determined levels or ranges for incentive ROEs.

(Q 96) For ROE incentives, to what extent, if any, should the Commission retain discretion to determine the appropriate level of ROE incentives?

(Q 97) If the Commission retains discretion with respect to determining ROE incentives, should its discretion be bound within a pre-determined range

[53] *See* Order No. 679, 116 FERC ¶ 61,057 at P 156 (explaining that the Commission's proposed change in policy was an extension of the Commission's decision in *S. Cal. Edison Co.,* 112 FERC ¶ 61,014, *reh'g denied,* 113 FERC ¶ 61,143 (2005)).

[54] *Id.* P 163.

[55] For example, the incentive for joining an RTO/ISO or forming a Transco could be limited to a set number of years.

[56] Order No. 679–A, 117 FERC ¶ 61,345 at P 21.

[57] An exception, as noted, is that the Commission has required applicants to seek to employ risk reducing incentives before they seek an ROE adder for risks and challenges. *See* 2012 Incentives Policy Statement, 141 FERC ¶ 61,129 at PP 24, 28–29.

[58] The Commission has proposed a methodology for base ROE and established a paper hearing proceeding on whether and how this methodology should apply. *See Martha Coakley* v. *Bangor Hydro-Elec. Co.,* 165 FERC ¶ 61,030 (2018); *Ass'n of Businesses Advocating Tariff Equity* v. *Midcontinent Indep. Sys. Operator, Inc.,* 165 FERC ¶ 61,118 (2018).

(*e.g.,* between 50 and 100 basis points)? If so, what is the appropriate range and why?

E. Metrics for Evaluating the Effectiveness of Incentives

48. The Commission has a ''longstanding policy that incentives should only be awarded to induce voluntary conduct.'' [59] Nevertheless, it can sometimes be difficult to identify the extent to which a particular incentive motivates a transmission developer to take a particular action. Order No. 679 adopted an annual reporting requirement, Form FERC–730, which requires transmission incentives recipients to provide limited information.[60] Additional transmission incentive-related data, beyond that available under the Commission's existing reporting standards or through other public sources, could help the Commission to better understand the effectiveness of the incentives program, including the effects of any changes that it adopts through this proceeding. In particular, a standard of comparison among transmission projects, regardless of whether a project receives incentives and/or ultimately goes into service, would allow the Commission to examine whether incentives motivate investment in and development of new transmission projects.

(Q 98) What metrics should the Commission use in measuring the effectiveness of incentives, *e.g.,* if certain milestones are reached or only if a transmission project is built and energized?

(Q 99) Should the obligation to file Form FERC–730 be expanded to all public utility transmission providers?

(Q 100) Should the Commission require that incentive recipients provide additional data through Form FERC–730? If so, what additional information should be provided?

(Q 101) For each transmission project, should the Commission require additional data such as the primary driver of each transmission project (*e.g.,* reliability needs) and the risks entailed in its development (*e.g.,* number of permits required, siting challenges)?

(Q 102) If a transmission project is abandoned, should the Commission require additional data such as the reasons that it failed (*e.g.,* lack of financing, inability to obtain permits, the need for the transmission project did not materialize or was addressed through other means)?

(Q 103) Should the information on annual transmission spending associated with projects that received transmission incentives be broken down by transmission project?

(Q 104) How burdensome would such information requirements be? To ensure that any reporting is not unduly burdensome, should the Commission adopt some type of reporting threshold, such as a voltage, mileage, or dollar threshold, to limit the transmission projects on which it collects information?

(Q 105) Should the Commission upgrade the FERC–730 filing format to XBRL or another format or standard? If so, what filing format would be most beneficial and useful to filers and users of the information?

III. Comment Procedures

49. The Commission invites interested persons to submit comments on the matters and issues proposed in this Notice of Inquiry, including any related matters or alternative proposals that commenters may wish to discuss. Initial Comments are due June 25, 2019, and Reply Comments are due July 25, 2019. Comments must refer to Docket No. PL19–3–000, and must include the commenter's name, the organization they represent, if applicable, and their address in their comments.

50. The Commission encourages comments to be filed electronically via the eFiling link on the Commission's website at *http://www.ferc.gov.* The Commission accepts most standard word processing formats. Documents created electronically using word processing software should be filed in native applications or print-to-PDF format and not in a scanned format. Commenters filing electronically do not need to make a paper filing.

51. Commenters that are not able to file comments electronically must send an original of their comments to: Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE, Washington, DC 20426.

52. All comments will be placed in the Commission's public files and may be viewed, printed, or downloaded remotely as described in the Document Availability section below. Commenters on this proposal are not required to serve copies of their comments on other commenters.

IV. Document Availability

53. In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://www.ferc.gov*) and in the Commission's Public Reference Room during normal business hours (8:30 a.m. to 5:00 p.m. Eastern time) at 888 First Street NE, Room 2A, Washington DC 20426.

54. From the Commission's Home Page on the internet, this information is available on eLibrary. The full text of this document is available on eLibrary in PDF and Microsoft Word format for viewing, printing, and/or downloading. To access this document in eLibrary, type the docket number excluding the last three digits of this document in the docket number field.

55. User assistance is available for eLibrary and the Commission's website during normal business hours from the Commission's Online Support at 202–502–6652 (toll free at 1–866–208–3676) or email at *ferconlinesupport@ferc.gov,* or the Public Reference Room at (202) 502–8371, TTY (202)502–8659. Email the Public Reference Room at *public.referenceroom@ferc.gov.*

By direction of the Commission.

Issued: March 21, 2019.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2019–05895 Filed 3–27–19; 8:45 am]

BILLING CODE 6717–01–P

[59] *Cal. Pub. Util. Comm'n* v. *FERC,* 879 F.3d at 978.

[60] Order No. 679, 116 FERC ¶ 61,057 at P 367. FERC–730 requests information concerning: (1) The transmission developer's actual capital spending on each transmission project for which it has received incentives, as well as its projected capital spending on the projects for the next five years; (2) a high-level description of such projects, including their voltage level; (3) the type of transmission project (*i.e.,* whether it is new build, an upgrade to existing infrastructure, a refurbishment/replacement, or a generator direct connection); (4) each project's completion status (*i.e.,* complete, under construction, pre-engineering, planned, proposed, or conceptual); and (5) each project's estimated completion date, as well as the reason for any delays (*i.e.,* siting, permitting, construction, delayed completion of new generator, or other).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 14861–001]

FFP Project 101, LLC; Notice of Intent To File License Application, Filing of Pre-Application Document, and Approving Use of the Traditional Licensing Process

a. *Type of Filing:* Notice of Intent to File License Application and Request to Use the Traditional Licensing Process.

b. *Project No.:* 14861–001.

c. *Date Filed:* January 28, 2019.

d. *Submitted By:* Rye Development on behalf of FFP Project 101, LLC.

e. *Name of Project:* Goldendale Pumped Storage Project.

f. *Location:* Off-stream (north side) of the Columbia River at River Mile 215.6

in Klickitat County, Washington and Sherman County, Oregon, approximately 8 miles southeast of the City of Goldendale. The project would occupy 16.1 acres of lands administered by the Bonneville Power Administration.

g. *Filed Pursuant to:* 18 CFR 5.3 of the Commission's regulations.

h. *Potential Applicant Contact:* Erik Steimle, Rye Development, 220 NW 8th Avenue, Portland, Oregon 97209; (503) 998–0230; email—*erik@ryedevelopment.com.*

i. *FERC Contact:* Michael Tust at (202) 502–6522; or email at *michael.tust@ferc.gov.*

j. FFP Project 101, LLC (FFP) filed its request to use the Traditional Licensing Process on January 28, 2019. FFP provided public notice of its request on January 30, 2019 and January 31, 2019. In a letter dated March 21, 2019, the Director of the Division of Hydropower Licensing approved FFP's request to use the Traditional Licensing Process.

k. With this notice, we are initiating informal consultation with the U.S. Fish and Wildlife Service and/or NOAA Fisheries under section 7 of the Endangered Species Act and the joint agency regulations thereunder at 50 CFR part 402; and NOAA Fisheries under section 305(b) of the Magnuson-Stevens Fishery Conservation and Management Act and implementing regulations at 50 CFR 600.920. We are also initiating consultation with the Washington State Historic Preservation Officer and the Oregon State Historic Preservation Officer, as required by section 106, National Historic Preservation Act, and the implementing regulations of the Advisory Council on Historic Preservation at 36 CFR 800.2.

l. With this notice, we are designating FFP as the Commission's non-federal representative for carrying out informal consultation pursuant to section 7 of the Endangered Species Act and section 305(b) of the Magnuson-Stevens Fishery Conservation and Management Act; and consultation pursuant to section 106 of the National Historic Preservation Act.

m. FFP filed a Pre-Application Document (PAD; including a proposed process plan and schedule) with the Commission, pursuant to 18 CFR 5.6 of the Commission's regulations.

n. A copy of the PAD is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's website (*http://www.ferc.gov*), using the ''eLibrary'' link. Enter the docket number, excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). A copy is also available for inspection and reproduction at the address in paragraph h.

o. Register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filing and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

Dated: March 21, 2019.

Kimberly D. Bose,

Secretary.

[FR Doc. 2019–05903 Filed 3–27–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PL19–4–000]

Inquiry Regarding the Commission's Policy for Determining Return on Equity

AGENCY: Federal Energy Regulatory Commission, Department of Energy.

ACTION: Notice of inquiry.

SUMMARY: Following the decision of the U.S. Court of Appeals for the District of Columbia Circuit in *Emera Maine* v. *Federal Energy Regulatory Commission,* the Commission seeks information and stakeholder views to help the Commission explore whether, and if so how, it should modify its policies concerning the determination of the return on equity (ROE) to be used in designing jurisdictional rates charged by public utilities. The Commission also seeks comment on whether any changes to its policies concerning public utility ROEs should be applied to interstate natural gas and oil pipelines.

DATES: Initial Comments are due June 26, 2019, and Reply Comments are due July 26, 2019.

ADDRESSES: Comments, identified by docket number, may be filed in the following ways:

- *Electronic Filing through http://www.ferc.gov.* Documents created electronically using word processing software should be filed in native applications or print-to-PDF format and not in a scanned format.
- *Mail/Hand Delivery:* Those unable to file electronically may mail or hand-deliver comments to: Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE, Washington, DC 20426.
- *Instructions:* For detailed instructions on submitting comments, see the Comment Procedures Section of this document.

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SUPPLEMENTARY INFORMATION:

1. In this Notice of Inquiry (NOI), the Commission seeks information and stakeholder views regarding whether, and if so how, it should modify its policies concerning the determination of the return on equity (ROE) to be used in designing jurisdictional rates charged by public utilities. The Commission also seeks comment on whether any changes to its policies concerning public utility ROEs should be applied to interstate natural gas and oil pipelines.

2. This NOI follows the decision of the U.S. Court of Appeals for the District of Columbia Circuit (D.C. Circuit) in *Emera Maine* v. *FERC,*[1] reversing and vacating Opinion No. 531.[2] In that decision, the court held, among other things, that the Commission had failed to justify its decision under section 206 of the Federal Power Act (FPA)[3] to set the ROE of the New England Transmission Owners[4] at the midpoint of the upper half of the zone of reasonableness produced by the two-step Discounted Cash Flow (DCF) analysis. While the court did not expressly question the Commission's

[1] 854 F.3d 9 (DC Cir. 2017) (*Emera Maine*).

[2] *Coakley, Mass. Attorney Gen.* v. *Bangor Hydro-Elec. Co.,* Opinion No. 531, 147 FERC ¶ 61,234, *order on paper hearing,* 149 FERC ¶ 61,032 (2014), *order on reh'g,* 150 FERC ¶ 61,165 (2015).

[3] 16 U.S.C. 824e.

[4] The New England Transmission Owners include Bangor Hydro-Elec. Co.; Cent. Me. Power Co.; New England Power Co. d/b/a Nat'l Grid; N.H. Transmission LLC d/b/a NextEra; NSTAR Elect. & Gas Corp.; Ne. Utilities Serv. Co.; United Illuminating Co.; Unitil Energy Systems, Inc. and Fitchburg Gas & Elec. Light Co.; and Vt. Transco, LLC. Opinion No. 531, 147 FERC ¶ 61,234 at P 1 n.3.

finding that anomalous capital market conditions justified an ROE above the midpoint of the DCF zone of reasonableness, the court concluded that the Commission failed to point to record evidence supporting the conclusion that its solution to the anomalous capital market conditions—setting the base ROE at the upper midpoint rather than the midpoint—was just and reasonable.[5]

3. The Commission recognizes the potentially significant and widespread effect of our ROE policies upon public utilities. The importance of ROE policy for public utilities extends beyond the particular interests of the parties to the *Emera Maine* proceeding. Accordingly, this NOI seeks further information as the Commission re-evaluates our ROE policies following the *Emera Maine* decision. Initial Comments are due June 26, 2019, and Reply Comments are due July 26, 2019.

I. Background

A. The DCF Model

4. The Supreme Court has held that ''the return to the equity owner should be commensurate with the return on investments in other enterprises having corresponding risks. That return, moreover, should be sufficient to assure confidence in the financial integrity of the enterprise, so as to maintain its credit and to attract capital.'' [6] Since the 1980s, the Commission has used the DCF model to develop a range of returns earned on investments in companies with corresponding risks for purposes of determining the ROE for regulated entities.

5. The DCF model was originally developed in the 1950s as a method for investors to estimate the value of securities, including common stocks. It is based on the premise that ''a stock's price is equal to the present value of the infinite stream of expected dividends discounted at a market rate commensurate with the stock's risk.'' [7] With simplifying assumptions, the DCF model results in the investor using the following formula to determine share price:

$$P = D/(k - g),$$

where P is the price of the stock at the relevant time, D is the current dividend, k is the discount rate (or investors' required return), and g is the expected growth rate in dividends.

6. For ratemaking purposes, the Commission rearranges the DCF formula to solve for k, the discount rate, so that:

$$k = D/P + g.$$

Under the resulting DCF formula, the investor's required return is estimated to equal current dividend yield (dividends divided by share price) plus the projected future growth rate of dividends. The term ''k'' represents the investor's required return for investing in the firm (*i.e.,* the cost of equity).[8] The Commission's practice has been to set a regulated firm's rate of return, or ''r'' to equal ''k'' the investor's required return for investing in the firm.

7. During the decades that the Commission has used the DCF model, the Commission periodically has made changes in its implementation of the model with respect to the industries that it regulates. In Opinion No. 531, the Commission used the same two-step, constant-growth DCF model in public utility cases as it had used in natural gas and oil pipeline cases for the last 20 years.[9] For the dividend yield component of that model, the Commission derives a single, average dividend yield based on the indicated dividend and the average of the monthly high and low stock prices over a six-month period.[10] The Commission then uses a two-step method to estimate a single constant growth rate in dividends.[11]

8. In order to project short-term growth in dividends, the Commission uses security analysts' three-year to five-year earnings forecasts, as published by the Institutional Brokers Estimate System (IBES). The Commission has held that earnings forecasts made by investment analysts are the best available estimates of short-term dividend growth based on a finding that they are relied on by investors when making their investment decisions.[12]

9. The use of a long-term growth estimate for dividends originated in the Commission's 1994 decision in *Ozark Gas Transmission System.*[13] In that decision, the Commission explained:

> In the constant growth DCF model used by both parties in this proceeding, dividends are expected to grow indefinitely at the rate of (g). The indefinite future used by the DCF model is 50 years or more . . . . While we concede that it is more difficult to project growth for many years from the present time, we conclude that a projection limited to five years, with no evidence of what is anticipated beyond that point, is not consistent with the DCF model and cannot be relied on in a DCF analysis.[14]

In Opinion No. 396–B, issued in 1997, the Commission held that the long-term growth in the United States economy as a whole, as measured by gross domestic product (GDP), is the most reasonable projection of long-term growth rates for interstate natural gas pipelines.[15] The Commission stated, ''[i]t is reasonable to expect that, over the long-run, a regulated firm will grow at the rate of the average firm in the economy, because regulation will generally prevent the firm from being extremely profitable during good periods, but also protects it somewhat during bad periods.'' [16] The D.C. Circuit affirmed the Commission's decision to use GDP to estimate long-term growth in dividends.[17]

10. When the Commission first required use of a long-term growth estimate, the Commission averaged the short-term IBES growth estimate with the long-term GDP growth estimate in determining the overall constant dividend growth rate.[18] However, in 1998, in Opinion No. 414–A, the Commission changed the weighting scheme in order to give two-thirds weight to short-term forecasts and one-

[5] *Emera Maine,* 854 F.3d at 28–29.

[6] *Fed. Power Comm'n* v. *Hope Natural Gas Co.,* 320 U.S. 591, 605 (1944) (*Hope*); *see also Bluefield Waterworks & Improvement Co.* v. *Pub. Serv. Comm'n,* 262 U.S. 679, 692–693 (1923) (*Bluefield); Duquesne Light Co.* v. *Barasch,* 488 U.S. 299, 314 (1989).

[7] *Canadian Ass'n of Petroleum Producers* v. *FERC,* 254 F.3d 289, 293 (DC Cir. 2001); *see also Composition of Proxy Groups for Determining Gas and Oil Pipeline Return on Equity,* 123 FERC ¶ 61,048, at P 58 (2008) (*Proxy Group Policy Statement*).

[8] *See* Opinion No. 531, 147 FERC ¶ 61,234 at P 15.

[9] *Id.* P 8.

[10] *See, e.g., Portland Natural Gas Transmission Sys.,* Opinion No. 510, 134 FERC ¶ 61,129, at PP 232–34 (2011).

[11] Opinion No. 531, 147 FERC ¶ 61,234 at P 17.

[12] *See, e.g., Transcon. Gas Pipe Line Corp.,* Opinion No. 414–B, 85 FERC ¶ 61,323, at 62,269 & n.34 (1998) (citing an article entitled ''Using Analysts' Growth Forecasts to Estimate Shareholders Required Rates of Return'' in *Financial Management,* Spring 1986, pages 58–67); *Proxy Group Policy Statement,* 123 FERC ¶ 61,048 at PP 73–77.

[13] 68 FERC ¶ 61,032 (1994) (*Ozark*).

[14] *Id.* at 61,105. The Commission chose 50 years to represent the indefinite future because the present value of a one-dollar dividend received 50 years in the future and discounted at 12 percent is less than one cent. *Id.* at n.32.

[15] Opinion No. 396–B, 79 FERC at 62,382–83, *reh'g denied,* Opinion No. 396–C, 81 FERC ¶ 61,036 (1997).

[16] *Id.*

[17] *Williston Basin Interstate Pipeline Co.,* v. *FERC,* 165 F.3d 54, 64 (D.C. Cir. 1999), finding that ''[t]he testimony adduced at the hearing demonstrated that major investment houses used an economy-wide approach to project long-term growth, that such an approach was supported by practical economic considerations, and that existing industry-specific approaches imperfectly reflected investor expectations and made unfounded economic assumptions.'' Nonetheless, finding the record evidence inadequate to support the Commission's use of certain GDP data, the court remanded the case for further proceedings on this issue. Subsequently, the Commission has used an average of three GDP growth projections.

[18] Opinion No. 396–B, 79 FERC at 62,383, *reh'g denied,* Opinion No. 396–C, 81 FERC ¶ 61,036.

third weight to long-term forecasts. The Commission explained,

> While determining the cost of equity nevertheless requires that a long-term evaluation be taken into account, long-term projections are inherently more difficult to make, and thus less reliable, than short-term projections. Over a longer period, there is a greater likelihood for unanticipated developments to occur affecting the projection. Given the greater reliability of the short-term projection, we believe it is appropriate to give it greater weight. However, continuing to give some effect to the long-term growth projection, will aid in normalizing any distortions that might be reflected in short-term data limited to a narrow segment of the economy.[19]

The D.C. Circuit affirmed this two-thirds/one-third weighting for determining the overall dividend growth estimate.[20]

11. Prior to Opinion No. 531, the Commission determined public utility ROEs using a one-step, constant-growth DCF model, which considered only short-term growth projections for a public utility.[21] In 2000, the Commission decided not to adopt the two-step DCF methodology for public utilities, primarily because they were only just beginning the process of restructuring. Under those circumstances, the Commission determined that investors would be unlikely to place much weight on long-term forecasts because the uncertainties regarding the future were so great.[22] However, in Opinion No. 531, the Commission found that investor uncertainty due to the type of changes anticipated in 2000 had diminished. Accordingly, the Commission concluded that the time had come to apply the same DCF methodology in public utility cases as it utilizes in natural gas and oil pipeline cases.[23] Most importantly, the Commission found that including a long-term estimate of dividend growth in the constant growth DCF model would bring the public utility ROE approach into full alignment with the underlying theory of the DCF model.[24] As it found with respect to natural gas and oil pipelines, the Commission found that it is reasonable to project that public utilities, which transmit electricity to supply energy to the national economy, will have long-term growth consistent with the growth of the economy as a whole.[25] The Commission also found that the use of a long-term growth projection will aid in normalizing any distortions that might be reflected in short-term data limited to a narrow segment of the economy. Finally, using the same long-term growth projection for all public utilities produces a narrower zone of reasonableness, consistent with the fact different firms in a regulated industry would not ordinarily be expected to have widely varying levels of profitability.

12. No party in the Opinion No. 531 proceeding objected to the Commission's adoption of the two-step DCF model for public utilities, and the Commission also applied that model, without objection, in Opinion No. 551, addressing a complaint that the MISO Transmission Owners' ROE is unjust and unreasonable.[26]

B. Other Financial Models

13. Although the Commission has used the DCF model to determine ROEs for public utilities and natural gas and oil pipelines since the 1980s, investors use other financial models in addition to the DCF model to evaluate investments. In a number of recent proceedings, discussed further below, the Commission has considered certain other financial models when determining the just and reasonable ROE for public utilities. These other financial models include the Capital Asset Pricing Model (CAPM), Expected Earnings Model, and Risk Premium method, which are described below.

1. The CAPM Model

14. Investors use CAPM analysis as a measure of the cost of equity relative to risk.[27] The CAPM methodology is based on the theory that the market-required rate of return for a security is equal to the risk-free rate plus a risk premium associated with the specific security. Specifically, the CAPM methodology estimates the cost of equity by taking the ''risk-free rate'' and adding to it the ''market-risk premium'' multiplied by ''beta.''[28] The risk-free rate is represented by a proxy, typically the yield on 30-year U.S. Treasury bonds.[29] Betas, which are published by several commercial sources, measure a specific stock's risk relative to the market. The market risk premium is calculated by subtracting the risk-free rate from the expected return. The expected return can be estimated either using a backward-looking approach, a forward-looking approach, or a survey of academics and investment professionals.[30] A CAPM analysis is backward-looking if the expected return is determined based on historical, realized returns.[31] A CAPM analysis is forward-looking if the expected return is based on a DCF analysis of a large segment of the market.[32] Thus, in a forward-looking CAPM analysis, the market Risk Premium is calculated by subtracting the risk-free rate from the result produced by the DCF analysis.[33]

2. Expected Earnings

15. A comparable earnings analysis is a method of calculating the earnings an investor expects to receive on the book value of a particular stock. The analysis can be either backward looking using the company's historical earnings on book value, as reflected on the company's accounting statements, or forward-looking using estimates of earnings on book value, as reflected in analysts' earnings forecasts for the company.[34] The forward-looking approach is often referred to as an ''Expected Earnings'' analysis. The returns on book equity that investors expect to receive from a group of companies with risks comparable to those of a particular utility are relevant to determining that utility's cost of equity, because those returns on book equity help investors determine the

[19] Opinion No. 414–A, 84 FERC at 61,423–24.

[20] *Canadian Ass'n of Petroleum Producers* v. *FERC,* 254 F.3d at 297. Since Opinion No. 414–A, the Commission has made no changes in its two-step DCF methodology used for natural gas and oil pipelines, except to require that, if a master limited partnership (MLP) is included in the proxy group, its long-term growth rate should be one-half the GDP growth estimate. *Proxy Group Policy Statement,* 123 FERC ¶ 61,048 at P 106. The Commission explained that MLPs have less growth potential than corporations, because they generally distribute to partners an amount in excess of their reported earnings. *Id.* P 12.

[21] *See* Opinion No. 531, 147 FERC ¶ 61,234 at PP 24–31 (describing the one-step method).

[22] Opinion No. 445, 92 FERC at 61,261–62.

[23] Opinion No. 531, 147 FERC ¶ 61,234 at PP 35–36.

[24] Incorporating a long-term growth estimate in the DCF methodology is consistent with the underlying theory of the constant growth DCF model because

> from the standpoint of the DCF model that extends into perpetuity, analysts' horizons are too short, typically five years. It is often unrealistic for such growth to continue in perpetuity. A transition must occur between the first stage of growth forecast by analysts for the first five years and the company's long-term sustainable growth rate. . . . It is useful to remember that eventually all company growth rates, especially utility services growth rates, converge to a level consistent with the growth rate of the aggregate economy.

Roger A. Morin, New Regulatory Finance 308 (Public Utilities Reports, Inc. 2006) (Morin).

[25] *See* Opinion No. 531, 147 FERC ¶ 61,234 at P 40.

[26] *Ass'n of Businesses Advocating Tariff Equity* v. *Midcontinent Indep. Sys. Operator, Inc.,* 156 FERC ¶ 61,234 (2016).

[27] Morin at 146–147.

[28] *Id.* at 150.

[29] *Id.* at 151.

[30] *Id.* at 155–162.

[31] *Id.* at 155–156.

[32] *Id.* at 159–160.

[33] *Id.* at 150, 155.

[34] *See* Opinion No. 531–B, 150 FERC ¶ 61,165 at P 125.

opportunity cost of investing in that particular utility instead of other companies of comparable risk.[35]

3. Risk Premium

16. The Risk Premium methodology, in which interest rates are a direct input, is ''based on the simple idea that since investors in stocks take greater risk than investors in bonds, the former expect to earn a return on a stock investment that reflects a 'premium' over and above the return they expect to earn on a bond investment.'' [36] As the Commission found in Opinion No. 531, investors' required risk premiums expand with low interest rates and shrink at higher interest rates. The link between interest rates and risk premiums provides a helpful indicator of how the interest rate environment affects investors' required rates of return.

17. Multiple approaches have been advanced to determine the equity risk premium for a utility.[37] For example, a risk premium can be developed directly by conducting a Risk Premium analysis for the company at issue, or indirectly by conducting a Risk Premium analysis for the market as a whole and then adjusting that result to reflect the risk of the company at issue.[38] Another approach for the utility context is to ''examin[e] the risk premiums implied in the returns on equity allowed by regulatory commissions for utilities over some past period relative to the contemporaneous level of the long-term U.S. Treasury bond yield.'' [39]

C. Opinion Nos. 531 and 551 and Anomalous Market Conditions

18. Since the financial crisis of 2008–2009, the Commission has grappled with whether the DCF model continues to produce ROEs for public utilities consistent with the *Hope* and *Bluefield* capital attraction standards.[40] In both Opinion Nos. 531 and 551, the Commission concluded that the capital market conditions prevailing after the financial crisis—in particular, the low yields on bonds, including U.S. Treasury bonds—rendered the Commission less confident that a mechanical application of the midpoint of the DCF-produced zone of reasonableness would provide a risk-appropriate ROE, as required by *Hope* and *Bluefield.* The Commission therefore considered a series of alternative valuation methodologies (*i.e.,* CAPM analysis, Expected Earnings analysis, and Risk Premium analysis), as well as the ROEs allowed by state public utility commissions, ''to gain insight into the potential impacts of these unusual capital market conditions on the appropriateness of using [the midpoint of the DCF zone of reasonableness].'' [41] The Commission concluded that the comparisons to the other valuation methodologies supported setting the New England Transmission Owners' ROE above the midpoint of the DCF zone of reasonableness. After determining that the just and reasonable base ROE should be above the midpoint, the Commission stated that it has traditionally used measures of central tendency to determine an appropriate return in ROE cases. Moreover, in cases involving placement of the base ROE above the central tendency of the zone of reasonableness, the Commission has used the central tendency of the top half of the zone.[42] Accordingly, in both Opinion Nos. 531 and 551, the Commission set the ROE at the midpoint of the upper half of the zone of reasonableness (upper midpoint).[43] In Opinion No. 531, the upper midpoint of the 7.03 percent to 11.74 percent zone of reasonableness was 10.57 percent.[44] In Opinion No. 551, the upper midpoint of the 7.23 percent to 11.35 percent zone of reasonableness was 10.32 percent.[45]

D. The Emera Maine Decision

19. Various parties sought review of Opinion No. 531 in the D.C. Circuit. The New England Transmission Owners argued that the Commission failed to demonstrate that their existing 11.14 base ROE was unjust and unreasonable. The customer representatives argued that the Commission had failed to show that the new 10.57 base ROE was just and reasonable. In *Emera Maine,* the D.C. Circuit agreed with both the New England Transmission Owners and customer representatives and vacated and remanded Opinion No. 531 *et seq.*

20. As an initial matter, the court rejected the New England Transmission Owners' argument that an ROE within the DCF-produced zone of reasonableness could not be deemed unjust and unreasonable. The court explained that the zone of reasonableness established by the DCF is not ''coextensive'' with the ''statutory'' zone of reasonableness envisioned by the FPA.[46] Accordingly, the court concluded that the fact that the New England Transmission Owners' existing ROE fell within the zone of reasonableness produced by the DCF did not necessarily indicate that it was just and reasonable for the purposes of the FPA.[47]

21. Nevertheless, the court agreed with the New England Transmission Owners that the Commission had not adequately shown that their existing ROE was unjust and unreasonable. The court explained that the FPA's statutory ''zone of reasonableness creates a broad range of potentially lawful ROEs rather than a single just and reasonable ROE'' and that whether a particular ROE is unjust and unreasonable depends on the ''particular circumstances of the case.'' [48] Thus, the fact that the New England Transmission Owners' existing ROE did not equal the just and reasonable ROE that the Commission would have set using the current DCF analysis inputs did not necessarily indicate that the New England Transmission Owners' existing ROE fell outside the statutory zone of reasonableness.[49] As such, the D.C. Circuit concluded that Opinion No. 531 ''failed to include an actual finding as to the lawfulness of [the New England] Transmission Owners' existing base ROE'' and that its conclusion that their existing ROE was unjust and unreasonable was itself arbitrary and capricious.[50]

22. The court also agreed with the customer representatives that the Commission failed to adequately demonstrate that the new base ROE it established was just and reasonable. The Court did not express concerns regarding the Commission's decision to ''abandon its traditional use of the midpoint of the zone of reasonableness in setting [the New England] Transmission Owners' base ROE'' based on the anomalous capital market conditions and its resulting evaluation of alternative methodologies for

[35] *Id.* P 128.

[36] Opinion No. 531, 147 FERC ¶ 61,234 at P 147 (citing Morin at 108).

[37] *See generally* Morin at 107–130.

[38] *Id.* at 110.

[39] *Id.* at 123.

[40] *Hope,* 320 U.S. 591; *Bluefield,* 262 U.S. 679.

[41] Opinion No. 531, 147 FERC ¶ 61,234 at P 145.

[42] *Id.* PP 151–152; Opinion No. 551, 156 FERC ¶ 61,234 at PP 275–276.

[43] The Commission sets the ROE for a group of utilities at the midpoint or upper midpoint of the zone of reasonableness, but the ROE for a single entity at the median or upper median. *See S. California Edison Co.* v. *FERC,* 717 F.3d 177, 181–182 (D.C. Cir. 2013).

[44] Opinion No. 531, 147 FERC ¶ 61,234 at P 142.

[45] Opinion No. 551, 156 FERC ¶ 61,234 at P 67.

[46] *Emera Maine,* 854 F.3d at 22–23.

[47] *Id.* at 23.

[48] *Id.* at 23, 26.

[49] *Id.* at 27 (''To satisfy its dual burden under section 206, FERC was required to do more than show that its single ROE analysis generated a new just and reasonable ROE and conclusively declare that, consequently, the existing ROE was per se unjust and unreasonable.'').

[50] *Id.*

calculating the cost of equity.[51] The court stated that ''the alternative benchmarks and additional record evidence may have shown that some upward adjustment was warranted.'' [52]

23. Nevertheless, the court concluded that the Commission failed to point to evidence in the record supporting the conclusion that its solution to the anomalous capital market conditions—*i.e.,* setting the base ROE at the upper midpoint rather than at the midpoint—was just and reasonable. The court explained that the Commission expressly did not rely on the alternative methodologies to support its determination that a 10.57 percent base ROE was just and reasonable. The court also observed that the Commission's explanation that it had previously set the just and reasonable base ROE at a measure of central tendency for the upper part of the DCF-produced zone of reasonableness was inapt because, in those cases, the Commission had first determined that those utilities were not of average risk, whereas the Commission found that the New England Transmission Owners were of average risk. The court therefore remanded the proceeding so that the Commission could further explain why the base ROE it selected is just and reasonable.

E. Post-Emera Maine Proceedings

24. Following the decision in *Emera Maine,* the Commission issued two orders proposing a methodology for addressing the issues that were remanded to the Commission in *Emera Maine* and establishing a paper hearing on whether and how this methodology should apply to the four complaint proceedings concerning both the New England and MISO transmission owners' ROE.[53] In those orders, the Commission proposed to change its approach to determining base ROE by giving equal weight to four financial models instead of primarily relying on the DCF methodology. The Commission stated that evidence indicates that investors do not rely on any one model to the exclusion of others. Therefore, relying on multiple financial models makes it more likely that the Commission's decision will accurately reflect how investors make their investment decisions.[54]

25. Specifically, the Commission proposed to rely on three financial models that produce zones of reasonableness—the DCF model, CAPM model, and Expected Earnings model—to establish a composite zone of reasonableness. The zone of reasonableness produced by each model would be given equal weight and averaged to determine the composite zone of reasonableness. The Commission explained that the Risk Premium model produces a single numerical point rather than a range; therefore, it cannot be used with the other three financial models in establishing a composite zone of reasonableness.[55] The Commission proposed a framework for using that composite zone of reasonableness in evaluating whether an existing base ROE remains just and reasonable.[56]

26. For purposes of establishing a new just and reasonable base ROE when the existing base ROE has been shown to be unjust and unreasonable, the Commission proposed relying on four financial models—the DCF model, CAPM model, Expected Earnings model, and Risk Premium model—to produce four separate base ROE estimates that would then be averaged to produce a specific just and reasonable base ROE.

27. The Commission established a paper hearing in the *Coakley* and MISO complaint proceedings [57] and directed the participants in those proceedings to submit briefs regarding this proposed new approach and how to apply it to those proceedings.[58]

II. Request for Comments

28. As part of ensuring that the Commission continues to meet our statutory obligations, the Commission, on occasion, engages in public inquiry to gauge whether there is a need to add to, modify, or eliminate certain policies or regulatory requirements. In this proceeding, the Commission seeks comments on potential modifications to our approach to determining a just and reasonable ROE. Although the Commission requested briefing on some of the issues below in the *Coakley* and MISO Briefing Orders, this proceeding will provide all interested stakeholders with the opportunity to comment on the Commission's ROE policy in light of the decision in *Emera Maine.*

29. The Commission seeks comments on eight general topics as part of this inquiry: (A) The role of the Commission's base ROE in investment decision-making and what objectives should guide the Commission's approach; (B) whether uniform application of our base ROE policy across the electric, interstate natural gas pipeline and oil pipeline industries is appropriate and advisable; (C) performance of the DCF model, (D) proxy groups; (E) financial model choice; (F) mismatch between market-based ROE determinations and book-value rate base; (G) how the Commission determines whether an existing ROE is unjust and unreasonable under the first prong of the FPA section 206; and (H) model mechanics and implementation.

30. In the following sections, we outline these eight topics and enumerate questions that commenters may consider in addressing each topic. Commenters need not address every topic or answer every question enumerated below.

A. Role and Objectives of the Commission's Base ROE Policy

31. The Commission seeks comment on the role of base ROE in investment decision-making and what objectives should guide the Commission's approach to our base ROE policy apart from the basic *Hope/Bluefield* standard.

A1. To what extent would the ROE methodology described in the *Coakley* and MISO Briefing Orders impact the predictability of ROE determinations and the costs for market participants of making or intervening in such proceedings?

A2. How would using the ROE methodology described in the *Coakley* and MISO Briefing Orders affect an investor's ability to forecast the ROE the Commission would establish in a litigated proceeding and the ability of participants to propose, contest, and settle base ROEs as compared to using only the DCF methodology?

A3. Currently, public utilities in different Independent System Operators (ISOs) or RTOs may receive different ROEs, despite all using national proxy groups, due primarily to differences in when FPA section 205 or 206 proceedings were initiated. Are such variations justified, and, if not, should

[51] *Id.* at 27; *see also id.* at 30 (''[W]hile the evidence in this case may have supported an upward adjustment from the midpoint of the zone of reasonableness, FERC failed to provide any reasoned basis for selecting 10.57 percent as the new base ROE.'').

[52] *Id.* at 30 (quotation marks omitted).

[53] *See Martha Coakley* v. *Bangor Hydro-Elec. Co.,* 165 FERC ¶ 61,030 (2018) (*Coakley* Briefing Order); *Ass'n of Businesses Advocating Tariff Equity* v. *Midcontinent Indep. Sys. Operator, Inc.,* 165 FERC ¶ 61,118 (2018) (MISO Briefing Order).

[54] *Coakley* Briefing Order, 165 FERC ¶ 61,030 at P 34; MISO Briefing Order, 165 FERC ¶ 61,118 at P 36.

[55] *Coakley* Briefing Order, 165 FERC ¶ 61,030 at P 36; MISO Briefing Order, 165 FERC ¶ 61,118 at P 38.

[56] *Coakley* Briefing Order, 165 FERC ¶ 61,030 at P 36; MISO Briefing Order, 165 FERC ¶ 61,118 at P 38.

[57] *Coakley* Briefing Order, 165 FERC ¶ 61,030 at P 31; MISO Briefing Order, 165 FERC ¶ 61,118 at P 20.

[58] *Coakley* Briefing Order, 165 FERC ¶ 61,030 at P 31; MISO Briefing Order, 165 FERC ¶ 61,118 at P 20; *see also Arkansas Pub. Serv. Comm'n,* 165 FERC ¶ 61,119 (2018).

the Commission consider applying the same ROE to all utilities in RTOs/ISOs based on the most recent proceeding?

A4. Should the ROE reflect the cost of capital at the time of the investment or be subject to adjustment to reflect the contemporary ROE required by investors?

A4.a. Should the Commission consider a ''vintage approach,'' with ROE fixed for the life of the asset at the time that each asset was completed?

A4.b. Would such a ''vintage approach'' need to be coupled with an annual national default ROE for investments made in that year, so as to minimize the need for numerous annual litigated ROE proceedings for each public utility that made an investment during that year? What procedure should be used to determine such a default ROE?

B. ROEs for Different Commission-Regulated Industries

32. The Commission seeks comment on whether to apply a single ROE policy across electric, interstate natural gas and oil pipeline industries.

B1. In Opinion No. 531, the Commission found that the same DCF methodology should be used to determine an ROE for all its regulated industries, including public utilities, as well as gas and oil pipelines. If the Commission departs from our sole use of a two-step DCF methodology for public utilities, should the new method or methods also be used to determine natural gas and oil pipeline ROEs?

B2. The Risk Premium methodology approved in Opinion Nos. 531 and 551 relied to a large extent on ROEs set forth in numerous settlements involving public utility formula rates approved by the Commission over the preceding 15 or 20 years. Natural gas and oil pipelines have stated rates and settlements of their rate cases are typically ''black box'' settlements that do not specify an agreed-upon ROE. How could the Risk Premium methodology be implemented in natural gas or oil pipeline rate cases where there is no history of ROE settlements from which to develop a risk premium study of the type used in Opinion Nos. 531 and 551?

B3. Given the tendency of the Expected Earnings methodology to produce more high-end outliers than the other methodologies, would there be a sufficient number of natural gas and oil pipeline proxy members to implement the Expected Earnings methodology for gas and oil pipelines?

B4. What, if any, differences between public utilities on the one hand and natural gas and oil pipelines on the other would justify using different methodologies to determine their ROEs? [59]

C. Performance of the DCF Model

33. The Commission seeks comment on the robustness of the DCF model over time and under differing investment conditions.

C1. The DCF model assumes stock prices are equal to the present value of projected future cash flows. Is there evidence of situations when these assumptions are inaccurate?

C2. Have current and projected proxy company earnings over the last 10 to 20 years increased in a manner that would justify any increases in their stock prices over the same period, consistent with DCF model assumptions?

C3. How does the DCF methodology perform over a wide range of interest rate conditions?

C3.a. What specific assumptions of the DCF model, if any, do not work well in low or high interest rate environments?

C3.b. Is there evidence that the volatility of price-to-earnings ratios over the last 10 to 20 years, assumed to be constant in the DCF methodology, has been driven by the wide swings in interest rates over this period? If so, would the constant P/E assumption impact the award of reasonable ROEs?

D. Proxy Groups

34. The Commission seeks comment on the appropriate guidelines for proxy group composition, elimination of outliers, and placement of base ROE within a zone of reasonableness.

D1. Should proxy groups for electric utilities, as well as natural gas and oil pipelines, consist only of companies with corresponding regulated businesses?

D1.a. For companies with a combination of regulated and unregulated businesses, should a company be required to derive a certain percentage of its revenues from the applicable regulated business in order for that company to be included in the proxy group that is used to determine an ROE for a company in that regulated business?

D1.b. Are the corresponding proxy groups sufficiently large given the continued consolidation in the industries?

D2. Should risk be considered both in the proxy group selection and in the placement within the zone of reasonableness?

D2.a. Should the Commission's approach to proxy group selection change depending on which financial models it considers when determining the just and reasonable ROE and, if so, how?

D3. Should the Commission consider non-energy companies when selecting proxy groups?

D3.a. What non-energy industries or securities have comparable risk to public utilities and natural gas and oil pipelines, if any?

D3.b. Do certain non-energy industries or securities feature fewer outliers?

D4. What, if any, are appropriate high- and low-end outlier tests?

D4.a. The Commission currently excludes from the proxy group companies whose ROE fails to exceed the average 10-year bond yield by approximately 100 basis points. Should the low-end outlier test continue to be based on a fixed value relative to the costs of debt or (a) should it be based on its value relative to the median (*i.e.,* less than 50 percent of the median); or (b) still reflect the cost of debt but vary based on interest rates?

D4.b. How, if at all, should the Commission's approach to outliers vary among different financial models?

D5. How, if at all, does the Commission's use of credit ratings in ROE determinations incentivize public utilities to behave in certain ways, such as issuing more debt, and does this affect public utilities' credit ratings?

D6. What would be the impact of the Commission modifying the credit rating screen to include all investment-grade utilities in the proxy group?

D7. To what extent do credit ratings correspond to the ROE required by investors?

D8. The Commission excludes from the proxy group companies with merger activity during the six-month study period that is significant enough to distort study inputs. Should the Commission continue using our existing merger screen?

D8.a. If so, should the Commission revise its standards for what conduct constitutes merger and acquisition activity?

D9. What circumstances or factors, if any, warrant an adjustment from the midpoint/median to other points within the zone of reasonableness (*e.g.,* lower or upper midpoint/median)?

D10. The Commission currently uses midpoints to determine the central tendency of the zone of reasonableness when determining RTO-wide ROEs.

[59] *See Trailblazer Pipeline Co. LLC,* 166 FERC ¶ 61,141, at P 48 (2019) (setting for hearing the issue of whether it would be appropriate to apply alternatives to the DCF for natural gas pipelines and whether appropriate data that would support those alternatives are available).

Should the Commission adopt a policy of using medians for this purpose?

D10.a. Would the use of multiple ROE methodologies, as proposed in the *Coakley* Briefing Order, undercut the Commission's current rationale for using the midpoint in RTO-wide base ROE?

D10.b. Should the size of the proxy group be considered in this decision?

D11. Can the Commission continue to construct proxy groups of sufficient size for natural gas and oil pipeline companies using the DCF methodology, or in general for the alternative methodologies, particularly considering the increased amount of merger and acquisition activity involving master limited partnerships (MLPs) and the multiple recent conversions of MLPs to C-corporations?

E. Financial Model Choice

35. In addition to the DCF model, the Commission seeks comment on other financial models that investors use to evaluate utility equities, the strengths and weaknesses of each of those models, and whether the Commission should weigh certain financial models over other models based on their respective characteristics.

E1. What models do investors use to evaluate utility equities?

E2. What role do current capital market conditions play in the choice of model used by investors to evaluate utility equities?

E2.a. If capital market conditions factor into the choice of model, how do investors determine and evaluate those conditions?

E3. Are any models thought to be superior or inferior to others? If so, why?

E4. How are alternative models redundant or complementary with each other and/or the DCF model?

E5. To what extent do alternative models avoid any deficiencies of the DCF model and/or operate better in diverse capital market conditions?

E6. To the extent that investors use multiple models, should the Commission combine them in its analysis or use the ''best'' one that would apply in all market conditions?

E7. If the Commission were to consider multiple models, how should it weigh them?

E8. To what extent is it reasonable for the Commission to use a simplified version of a model that does not reflect all the variables that investors consider?

E8.a. Is the use of a simplified model justified for ease of administration and predictability of result?

E9. How, if at all, should the Commission consider state ROEs?

E9.a. How and why do state ROEs vary by state?

E9.b. How are certain state ROEs more or less comparable to Commission ROEs?

E10. If the Commission considers state ROEs, how should it compare FERC-jurisdictional transmission ROEs with state ROEs that apply to utilities that are (a) distribution and transmission companies; or (b) distribution, generation, and transmission companies?

E11. To what extent, if any, should the Commission exercise judgment in using financial models to set ROEs under various capital market conditions?

F. Mismatch Between Market-Based ROE Determinations and Book-Value Rate Base

36. The DCF and CAPM models determine a percentage ROE based on market prices of the proxy companies. That percentage ROE is then applied to the book value of the rate base to calculate the monetary ROE included in a utility's cost of service. For the last three decades, the market-to-book ratios of the companies that the Commission uses in proxy groups have generally been substantially in excess of one. The Commission seeks comment on the mismatch between market-based ROE determinations and book-value rate base and whether this mismatch is a problem, and how the Commission should address this issue.

F1. Does the mismatch between market-based ROE determinations and a book value rate base support current market values? Is this mismatch a problem?

F2. Why have most or all utility market-to-book ratios consistently exceeded one?

F3. How should the ROE level be set relative to the cost of equity?

F4. Should the Commission revise our use of these models to account for the mismatch between market-based ROE determinations and book-value rate base? If so, how? For example, should the Commission adjust the dividend yield used in the DCF model to represent a yield on book value rather than a yield on stock price?

F5. Should the Commission consider adjusting ROEs to account for market-to-book ratios above or below one? Would doing so introduce circularity into Commission ROEs by setting the ROE at whatever level of earnings the market expected, rather than making an independent assessment of the appropriate ROE? [60]

G. First Prong of ROE Determination

37. In the *Coakley* and MISO Briefing Orders, the Commission proposed that, in order to find an existing ROE unjust and unreasonable under the first prong of FPA section 206, the ROE must be outside a range of presumptively just and reasonable ROEs for a utility of its risk profile, absent additional evidence to the contrary. For average risk utilities, the range of presumptively just and reasonable ROEs would be the quartile of the zone of reasonableness centered on the central tendency of the overall zone of reasonableness. For below or above average risk utilities, that range would be the quartile of the zone of reasonableness centered on the central tendency of the lower or upper half of the zone of reasonableness, respectively. The Commission seeks comment on how the Commission determines whether an existing ROE is unjust and unreasonable under the first prong of FPA section 206 and whether the quartile approach that the Commission proposed in the *Coakley* and MISO Briefing Orders is reasonable.

G1. How should the Commission determine if existing ROEs are just and reasonable?

G2. Is the quartile approach that the Commission proposed in the *Coakley* and MISO Briefing Orders appropriate? If not, how should the Commission revise this methodology?

G3. When a successive complaint is filed while the current ROE is being adjudicated (*i.e.,* a pancake complaint), should the subsequent complainant be required to make a prima facie showing of sufficient change in market conditions to meet the *Coakley* and MISO Briefing Order's proposed determination of whether an existing ROE remains just and reasonable? If so, what type of information or showing should the complainant provide to demonstrate that market conditions have changed, and what standard should the Commission apply when assessing whether to deny the subsequent complaint without setting it for hearing?

G4. In single utility rate cases, the Commission determines the central tendency of the zone of reasonableness based on the median of the proxy group ROEs. Is the approach outlined in the *Coakley* and MISO briefing orders appropriate in single utility rate cases given that the proxy company ROEs tend to cluster near the center of the

[60] *See Orange & Rockland Utilities, Inc.,* 44 FERC ¶ 61,253, at 61,952 (1998).

zone of reasonableness, making the middle quartile relatively narrow?

G4.a. Would it be reasonable to determine the central tendencies of the upper and lower halves of the zone of reasonableness for single utilities based on a midpoint analysis, so as to produce approximately equal ranges of presumptively just and reasonable ROEs for below average, average, and above average risk utilities?

H. Model Mechanics and Implementation

38. The Commission seeks comment on the mechanics and implementation of the DCF, CAPM, Expected Earnings, and Risk Premium models. Specifically, the Commission seeks comment on general issues that affect multiple models, such as the underlying data that the models rely on, and also seeks comment on the mechanics specific to each of the four respective models.

1. General Issues/Issues That Affect Multiple Models

H.1.1. Are IBES data a good proxy for ''investor consensus?''

H.1.1.a. If not, are there better alternatives, such as Bloomberg, Zacks, S&P Capital, Morningstar, and Value Line?

H.1.1.b. Should the Commission combine data from multiple sources?

H1.1.c. What weight, if any, should be given to an estimate if the number and identity of analysts contributing to the estimate is not available?

H.1.2. To what extent does model risk affect all ROE methodologies?

H.1.3. The DCF model incorporates data at the parent/holding company level (*e.g.,* stock price). The Commission adjudicates cases at the operating company level, for which there is no public data like stock prices, growth rates, and betas. What impact does this disparity have on the results of the DCF and other models?

H.1.4. Should the Commission continue to rely on the efficient market hypothesis, which underlies the DCF and CAPM models? Why or why not?

H.1.4.a. If yes, should the Commission continue to employ outlier screens, M&A screens, etc., for the DCF and CAPM models since these models need to incorporate all relevant information?

H.1.5. Should growth rates be based on Value Line, IBES, or alternative estimates?

H.1.6. Should the same growth rate sources be used across models, if more than one model is used to determine the ROE?

2. Model-Specific Questions

a. DCF

H.2.a.1. Should the Commission continue to use a dividend DCF model or should the Commission use a different DCF model, for example, one based on free cash flow?

H.2.a.2. Could terminal stock value be used in place of long-term growth projections? If so, how should terminal stock value be determined?

H.2.a.3. Do investment analysts project earnings/dividends growth beyond five years, and if not, why not, and is GDP an appropriate proxy for long-term growth?

H.2.a.4. How should the Commission weight short-term and long-term earnings/dividend growth projections?

H.2.a.5. The Commission uses a constant growth DCF model. Should the Commission consider using a multi-stage DCF model? If so, how would the Commission determine the length of each stage of a proxy company's growth?

H.2.a.6. Are six months of average high/low historical monthly stock prices an appropriate measure for the current stock price ''P''?

b. CAPM

H.2.b.1. If the market risk premium is determined by applying the DCF methodology to a representative market index, should a long-term growth rate be used, as in the Commission's two-step DCF methodology?

H.2.b.2. Beta is a measure of a security's risk relative to the broader market, such as the S&P 500, not of its absolute risk. Do CAPM's assumptions break down if *both* utility stocks and the broader market become riskier over time on an absolute basis, but the relative increase in risk in utility stocks rises more slowly?

H.2.b.3. What are appropriate data sources for the beta value?

H.2.b.4. Should the Commission employ more sophisticated versions of the CAPM model that consider more variables instead of only beta, such as the Fama-French Model? [61]

c. Expected Earnings

H.2.c.1. Should the use of utilities in the proxy group for the Expected Earnings model be predicated on the Expected Earnings analysis being forward-looking?

H.2.c.2. What, if any, concerns regarding circularity are there with using the Expected Earnings analysis to determine the base ROE, as opposed to using the analysis for corroborative purposes?

H.2.c.2.i. If there are circularity concerns, are there ways to mitigate these concerns for the Expected Earnings analysis? If these concerns exist, are these concerns more significant than those surrounding the DCF methodology, which effectively separates Expected Earnings and ROE into its dividend yield and growth rate subcomponents?

d. Risk Premium

H.2.d.1. Should the analysis be historical or forward-looking?

H.2.d.2. Is a Risk Premium analysis compatible with a finding of anomalous capital market conditions? Why or why not?

H.2.d.3. Unlike the financial models discussed above, the Risk Premium analysis produces a single ROE rather than a zone of reasonableness. Does this characteristic require the Commission to use the Risk Premium model differently than the other models?

H.2.d.3.i. Is there a method by which the Risk Premium ROE could be adjusted upward for an above average utility or downward for a below average risk utility? If not, is it reasonable to consider the results of a Risk Premium analysis when determining the ROE of an above or below average risk utility?

H.2.d.3.ii. Is it appropriate to use a Risk Premium analysis when conducting the first prong of the section 206 evaluation?

III. Comment Procedures

39. The Commission invites interested persons to submit comments on the matters and issues proposed in this notice, including any related matters or alternative proposals that commenters may wish to discuss. Comments are due June 26, 2019, and Reply Comments are due July 26, 2019. Comments must refer to Docket No. PL19–4–000, and must include the commenter's name, the organization they represent, if applicable, and their address.

40. The Commission encourages comments to be filed electronically via the eFiling link on the Commission's website at *http://www.ferc.gov*. The Commission accepts most standard

[61] The Fama and French Model is an asset pricing model that takes into consideration that value and small-cap stocks outperform markets on a regular basis. The model initially considered two factors in addition to the CAPM model: The size risk and value risk factors to the market risk factor in CAPM. Later in 2015, two additional factors were added: Profitability and investment. *See generally* Eugene F. Fama, *et al.* ''Common risk factors in the returns on stocks and bonds,'' Journal of Financial Economics (1993); Eugene F. Fama, *et al.* ''A Five-Factor Asset Pricing Model,'' Journal of Financial Economics (2015).

word-processing formats. Documents created electronically using word-processing software should be filed in native applications or print-to-PDF format and not in a scanned format. Commenters filing electronically do not need to make a paper filing.

41. Commenters that are not able to file comments electronically must send an original of their comments to: Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE, Washington, DC 20426.

42. All comments will be placed in the Commission's public files and may be viewed, printed, or downloaded remotely as described in the Document Availability section below. Commenters on this proposal are not required to serve copies of their comments on other commenters.

IV. Document Availability

43. In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://www.ferc.gov*) and in the Commission's Public Reference Room during normal business hours (8:30 a.m. to 5:00 p.m. eastern time) at 888 First Street NE, Room 2A, Washington, DC 20426.

44. From the Commission's Home Page on the internet, this information is available on eLibrary. The full text of this document is available on eLibrary in PDF and Microsoft Word format for viewing, printing, and/or downloading. To access this document in eLibrary, type the docket number excluding the last three digits of this document in the docket number field.

45. User assistance is available for eLibrary and the Commission's website during normal business hours from the Commission's Online Support at (202) 502–6652 (toll free at 1–866–208–3676) or email at *ferconlinesupport@ferc.gov,* or the Public Reference Room at (202) 502–8371, TTY (202) 502–8659. Email the Public Reference Room at *public.referenceroom@ferc.gov*.

By direction of the Commission.

Issued: March 21, 2019.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2019–05893 Filed 3–27–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. AD19–12–000]

Security Investments for Energy Infrastructure Technical Conference; Supplemental Notice of Technical Conference

Take notice that the Federal Energy Regulatory Commission (Commission) and the United States Department of Energy (DOE) will co-host a Security Investments for Energy Infrastructure Technical Conference (conference) on Thursday, March 28, 2019, from 10:00 a.m. to 4:00 p.m. This Commissioner- and DOE senior official-led conference will be held in the Commission Meeting Room at the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. The purpose of the conference is to discuss current cyber and physical security practices used to protect energy infrastructure and will explore how federal and state authorities can provide incentives and cost recovery for security investments in energy infrastructure, particularly the electric and natural gas sectors. Attached is the final agenda for this event with the confirmed list of panelists.

The conference will be open and free to the public; however, interested attendees are encouraged to preregister online at: *https://www.ferc.gov/whats-new/registration/03-28-19-form.asp.* In-person attendees should allow ample time to pass through building security procedures before the 10:00 a.m. start time of the conference.

The Commission intends to solicit post-technical conference comments and will issue a public notice with further directions following the conclusion of the conference.

Information regarding the conference will be posted on the Calendar of Events on the Commission's website, *http://www.ferc.gov,* prior to the event. The conference will also be webcast and transcribed. Anyone with internet access who desires to listen to this event can do so by navigating to the Calendar of Events at *http://www.ferc.gov* and locating this event in the Calendar. The event will contain a link to the webcast. The Capitol Connection provides technical support for webcasts and offers the option of listening to the meeting via phone-bridge for a fee. If you have any questions, visit *http://www.CapitolConnection.org* or call (703) 993–3100. Transcripts of the technical conference will be available for a fee from Ace-Federal Reporters, Inc. at (202) 347–3700.

Commission conferences are accessible under section 508 of the Rehabilitation Act of 1973. For accessibility accommodations, please send an email to *accessibility@ferc.gov* or call toll free 1 (866) 208–3372 (voice) or (202) 502–8659 (TTY), or send a fax to (202) 208–2106 with the required accommodations.

For more information about this technical conference, please contact Carolyn Templeton by phone at (202) 502–8785 or by email at *carolyn.templeton@ferc.gov.* For information related to logistics, please contact Sarah McKinley at (202) 502–8368 or by email at *sarah.mckinley@ferc.gov.*

Dated: March 21, 2019.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

FERC/DOE Security Investments for Energy Infrastructure Technical Conference

Docket No. AD19–12–000

Thursday, March 28, 2019—10:00 a.m.–4:00 p.m.

The Commission has a well-developed set of mandatory and enforceable reliability standards that set baseline protections for both cyber and physical security of the bulk electric system. Moreover, the Commission has well established policies that allow for the opportunity to recover prudently incurred costs to comply with those mandatory reliability standards. This technical conference is aimed at better understanding (1) the need for security investments that go beyond those measures already required by mandatory reliability standards, including in infrastructure not subject to those standards (*e.g.,* natural gas pipelines); (2) how the costs of such investments are or could be recovered; and (3) whether additional incentives for making such investments are needed, and if so, how those incentives should be designed.

10:00 a.m. Opening Remarks and Introductions

10:30 a.m. Panel I: Cyber and Physical Security, Best Practices, and Industry and Government Engagement

Objectives: This panel will discuss types of cyber and physical security threats to energy infrastructure, particularly electric transmission, generation, and natural gas pipelines. In addition, the panel will explore best practices for cyber and physical security mitigation beyond those measures already required by mandatory

reliability standards and industry and government engagement needed to address these matters. Panelists will be asked to address the following:

Threats to Energy Infrastructure:

1. What cyber and physical security threats are most concerning for the energy industry? What critical factors should industry consider when evaluating the risk these threats present and prioritizing risk-mitigating security initiatives to address these threats?

2. Does industry have adequate resources to evaluate sophisticated threats such as whether adversaries have established access to their networks, whether insider threats exist, or whether supply chain equipment or subcomponents are compromised?

3. How are interdependencies among energy infrastructure sectors considered in risk management analyses?

4. What are some of the challenges (*e.g.*, staffing or technology), that industry faces, in order to keep current with the threats?

5. What other current or emerging threats should be addressed? For example, what are some of the types of physical and cyber security threats that Unmanned Aircraft Systems (*i.e.,* drones) can present? What experience has industry had with commercially-available products used to address these issues?

Mitigation: Strategies and Best Practices:

6. What are some of the best practices that industry uses to ensure effective action against cyber and physical security threats? Are adequate tools available for industry to assess where to apply best practices (*e.g.,* risk management analyses) for cyber and physical security threats? Do these analyses differ between cyber and physical security threats?

7. How does industry validate the effectiveness of, and maintain its mitigation techniques/measures (*e.g.,* red teaming, manufacturers recommendations) for, both physical and cyber protection? What are the processes to confirm the results are addressed? Are these lessons shared with others in the industry?

8. What resources are available to assist industry in evaluating risk to energy infrastructure and implementing mitigation measures, especially for small to medium size owners and operators?

9. What training opportunities are available to owners and operators to understand the various risks to their energy infrastructure and the measures taken to mitigate against physical and cyber threats? What training is necessary and not available?

10. How does industry mitigate key vulnerabilities to address disruptions from a cyber or physical attack or an extreme natural event (*e.g.*, geomagnetic disturbance)? How should spare equipment, sharing programs, contractor and mutual assistance programs, and other processes be considered in addressing disruptions? What role should the federal government play in helping industry prevent and respond to disruptions? What preparations should be made by industry to assure adequate response and recovery efforts?

Panelists:

- William R. Evanina; Director, Office of the Director of National Intelligence, National Counterintelligence and Security Center
- Robert Kolasky; Director, Department of Homeland Security, Cybersecurity and Infrastructure Security Agency, National Risk Management Center
- Charles P. Kosak; Deputy Assistant Secretary, Department of Defense, Defense Continuity and Mission Assurance
- Sonya T. Proctor; Assistant Administrator of Surface Operations Department of Homeland Security, Transportation Security Administration, Security Operations
- Nicholas K. Akins; President and CEO, American Electric Power
- Mark A. Gabriel; Administrator and CEO, Western Area Power Administration
- James B. Robb; President and CEO, North American Electric Reliability Corporation
- Thomas J. Galloway; President and CEO, North American Transmission Forum
- Donald F. Santa; President and CEO, Interstate Natural Gas Association of America

12:30 p.m. Lunch Break

1:45 p.m. Panel II: Incentives and Cost Recovery for Security Investments

Objectives: This panel will explore how federal and state authorities can provide incentives and cost recovery for security investments in energy infrastructure, particularly electric transmission, generation, and natural gas pipeline infrastructure. Panelists will be asked to address the following:

Cost Recovery:

1. What role do states currently play in requiring and/or facilitating energy infrastructure security investments? Do states require industry to have plans and programs to prevent and recover from cyber and physical attacks? Is industry subject to requirements to assess risk and prioritize action based on state priorities?

2. Are current cost recovery policies of the federal and state governments affecting the ability of owners and operators of energy infrastructure to invest in cyber and physical security for this energy infrastructure? Do federal and state policies complement or conflict with each other? Are these policies helping or hindering security investments?

3. Do cost recovery policies at the state and federal level facilitate the adoption of best practices for threat mitigation at energy infrastructures? Do they allow for cost recovery for investment to address mitigation of new and emerging threats (*e.g.,* intentional electromagnetic interference and electromagnetic pulse)?

4. Is FERC's September 14, 2001 Statement of Policy on Extraordinary Expenditures Necessary to Safeguard National Energy Supplies [1] still helpful to facilitate investment that supports physical and cyber security of energy infrastructure, or are any revisions to the Policy Statement needed to facilitate such investment?

5. For competitive generators that do not recover their costs through retail rates, are there mechanisms under which they may recover costs for physical or cybersecurity investments other than through their market-based rates?

6. If federal standards, guidelines, or authorities indicate that an energy facility is high-risk or critical (*i.e.,* designation as Defense Critical Electric Infrastructure under Section 215A of the Federal Power Act), how would such designations be considered as a company prioritizes security investments? How would such a designation be considered by state regulators when reviewing cost recovery filings for measures taken above and beyond compliance with mandatory reliability standards?

7. What factors should the states be aware of when reviewing cost recovery filings for cyber and physical security investments? Can these factors be included on an industry-wide or multi-state level?

8. Certain events could require significant unbudgeted resources to respond effectively. How should these costs be considered by federal and state authorities for cost recovery?

Financial Incentives:

9. What type of incentives would be most effective to facilitate investment in

[1] *Extraordinary Expenditures Necessary to Safeguard National Energy Supplies,* 96 FERC ¶ 61,299 (2001) (Policy Statement).

cyber and physical security? How could costs for these incentives be recovered?

10. How could the Commission use its authority under Section 219 of the Federal Power Act to establish incentives for improved cyber and physical security? Are there other ratemaking or accounting changes that would help incent investments in cyber and physical security?

11. Are there any grants or other cost recovery mechanisms available for industry to assist with security investments at their facilities?

12. What changes could federal and state authorities make to current policies to better incent the adoption of best practices for cyber and physical security at energy infrastructure facilities?

13. How should state and federal authorities prioritize incentives for various security investments? How should such incentives balance the need for improved security with the rate impact on consumers?

Panelists:

- Christopher M. Crane; President and CEO, Exelon Corporation
- Nicholas A. Brown; President and CEO, Southwest Power Pool, Inc.
- Jay Scott Emler; Commissioner, Kansas Corporation Commission
- Kevin G. Wailes; CEO, Lincoln Electric System and Co-Chair, Electricity Subsector Coordinating Council
- Paul Kjellander; Commissioner, Idaho Public Utilities Commission
- Alan S. Armstrong; President and CEO, Williams
- Upendra J. Chivukula; Commissioner, New Jersey Board of Public Utilities

3:45 p.m. Closing Remarks
4:00 p.m. Adjourn

[FR Doc. 2019–05894 Filed 3–27–19; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL19–56–000]

Hoosier Energy Rural Electric Cooperative, Inc.; Notice of Filing

Take notice that on March 20, 2019, Hoosier Energy Rural Electric Cooperative, Inc., filed a proposed revenue requirement for reactive supply and voltage control for the Lawrence Generating Station, Merom Generating Station, and Worthington Generating Station, under Midcontinent Independent System Operator Inc. Tariff Schedule 2.

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. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the website that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5:00 p.m. Eastern Time on April 10, 2019.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2019–05899 Filed 3–27–19; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OW–2004–0013; FRL–9990–95–OEI]

Information Collection Request Submitted to OMB for Review and Approval; Comment Request; EPA Strategic Plan Information on Source Water Protection (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) has submitted an information collection request (ICR), EPA Strategic Plan Information on Source Water Protection (EPA ICR Number 1816.07, OMB Control Number 2040–0197) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act. This is a proposed renewal of the ICR, which is currently approved through March 31, 2019. Public comments were previously requested via the **Federal Register** on November 9, 2018 during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden and cost to the public. An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

DATES: Additional comments may be submitted on or before April 29, 2019.

ADDRESSES: Submit your comments, referencing Docket ID Number EPA–HQ–OW–2004–0013, to (1) EPA online using *www.regulations.gov* (our preferred method), by email to the OW Docket at *OW-Docket@epa.gov,* or by mail to: the OW Docket, EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW, Washington, DC 20460, and (2) OMB via email to *oira_submission@omb.eop.gov.* Address comments to OMB Desk Officer for EPA.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: Sherri Comerford, Drinking Water Protection Division—Prevention Branch, Office of Ground Water and Drinking Water, (MC 4606M), Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone number: 202–564–4639; fax number: 202–564–3756; email address: *Comerford.Sherri@epa.gov.*

SUPPLEMENTARY INFORMATION: Supporting documents, which explain in detail the information that the EPA will be collecting, are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW, Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's

public docket, visit *http://www.epa.gov/dockets.*

Abstract: The EPA is collecting data from the states on their progress toward substantial implementation of protection strategies for all community water systems (CWSs). The EPA and states use this voluntary collection of data to understand the progress toward the Agency's goal of increasing the percentage of CWS (and the populations they serve) where risk is minimized through source water protection. The EPA specifically tracks the percentage of all CWSs that are implementing source water protection and the percentage of the population which is served by those systems.

Form Numbers: None.

Respondents/affected entities: State environmental and health agencies.

Respondent's obligation to respond: Voluntary.

Estimated number of respondents: 51 (total).

Frequency of response: Quarterly.

Total estimated burden: 684 hours (per year). Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: $29,874 (per year).

Changes in the Estimates: The EPA anticipates the annual totals for estimated burden to be 684 hours, an increase of 342 hours compared with the ICR currently approved by OMB. This is a two-fold-increase due to voluntary reporting that would increase in frequency from annually to quarterly compared to the ICR currently approved by OMB. States may use their existing methodology for routine tracking, which the EPA believes will result in efficiencies that would allow states to minimize hourly burden and cost.

Courtney Kerwin,

Director, Regulatory Support Division.

[FR Doc. 2019–05982 Filed 3–27–19; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OECA–2012–0526; FRL–9991–23–OEI]

Information Collection Request Submitted to OMB for Review and Approval; Comment Request; NESHAP for Aluminum, Copper and Other Non-Ferrous Metals Foundries (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) has submitted an information collection request (ICR), NESHAP for Aluminum, Copper and Other Non-ferrous Metals Foundries (EPA ICR Number 2332.05, OMB Control Number 2060–0630), to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act. This is a proposed extension of the ICR, which is currently approved through March 31, 2019. Public comments were previously requested, via the **Federal Register**, on May 30, 2018 during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden and cost to the public. An agency may neither conduct nor sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

DATES: Additional comments may be submitted on or before April 29, 2019.

ADDRESSES: Submit your comments, referencing Docket ID Number EPA–HQ–OECA–2012–0526, to: (1) EPA online using *www.regulations.gov* (our preferred method), or by email to *docket.oeca@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW, Washington, DC 20460; and (2) OMB via email to *oira_submission@omb.eop.gov.* Address comments to OMB Desk Officer for EPA.

EPA's policy is that all comments received will be included in the public docket without change, including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI), or other information whose disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: Patrick Yellin, Monitoring, Assistance, and Media Programs Division, Office of Compliance, Mail Code 2227A, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone number: (202) 564–2970; fax number: (202) 564–0050; email address: *yellin.patrick@epa.gov.*

SUPPLEMENTARY INFORMATION: Supporting documents, which explain in detail the information that the EPA will be collecting, are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov,* or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW, Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit: *http://www.epa.gov/dockets.*

Abstract: The National Emission Standards for Hazardous Air Pollutants (NESHAP) for Aluminum, Copper and Other Non-ferrous Metals Foundries apply to both existing and new facilities conducting melting operations located at an aluminum, copper, or other non-ferrous foundry that is an area source of hazardous air pollutants (HAP) emissions, melts 600 tons per year (tpy) of aluminum, copper, or other non-ferrous metal or greater, and uses material that contains or has the potential to emit HAP for which the source category was listed. New facilities include those that commenced construction, modification or reconstruction after the date of proposal. In general, all NESHAP standards require initial notifications, performance tests, and periodic reports by the owners/operators of the affected facilities. They are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. These notifications, reports, and records are essential in determining compliance, and are required of all affected facilities subject to NESHAP. This information is being collected to assure compliance with 40 CFR part 63, subpart ZZZZZZ.

Form Numbers: None.

Respondents/affected entities: Aluminum, copper, and other non-ferrous foundries.

Respondent's obligation to respond: Mandatory (40 CFR part 63, subpart ZZZZZZ).

Estimated number of respondents: 318 (total).

Frequency of response: Initially, occasionally and semiannually.

Total estimated burden: 11,900 hours (per year). Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: $1,360,000 (per year), which includes $0 for annualized capital/startup and/or operation & maintenance costs.

Changes in the Estimates: There is no change in the labor hours in this ICR compared to the previous ICR. This is due to two considerations: (1) The regulations have not changed over the past three years and are not anticipated to change over the next three years; and (2) the growth rate for the industry is very low, negative or non-existent, so

there is no significant change in the overall burden.

Courtney Kerwin,

Director, Regulatory Support Division.

[FR Doc. 2019–05984 Filed 3–27–19; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OECA–2014–0087; FRL–9990–54–OEI]

Information Collection Request Submitted to OMB for Review and Approval; Comment Request; NESHAP for Asphalt Processing and Asphalt Roofing Manufacturing (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) has submitted an information collection request (ICR), NESHAP for Asphalt Processing and Asphalt Roofing Manufacturing (EPA ICR Number 2029.08, OMB Control Number 2060–0520), to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act. This is a proposed extension of the ICR, which is currently approved through March 31, 2019. Public comments were previously requested, via the **Federal Register**, on May 30, 2018 during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden and cost to the public. An agency may neither conduct nor sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

DATES: Additional comments may be submitted on or before April 29, 2019.

ADDRESSES: Submit your comments, referencing Docket ID Number EPA–HQ–OECA–2014–0087, to: (1) EPA online using *www.regulations.gov* (our preferred method), or by email to *docket.oeca@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW, Washington, DC 20460; and (2) OMB via email to *oira_submission@omb.eop.gov.* Address comments to OMB Desk Officer for EPA.

The EPA's policy is that all comments received will be included in the public docket without change, including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI), or other information whose disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: Patrick Yellin, Monitoring, Assistance, and Media Programs Division, Office of Compliance, Mail Code 2227A, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone number: (202) 564–2970; fax number: (202) 564–0050; email address: *yellin.patrick@epa.gov.*

SUPPLEMENTARY INFORMATION: Supporting documents, which explain in detail the information that the EPA will be collecting, are available in the public docket for this ICR. The docket can be viewed either online at *www.regulations.gov,* or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW, Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit: *http://www.epa.gov/dockets.*

Abstract: The National Emission Standards for Hazardous Air Pollutants (NESHAP) for Asphalt Processing and Asphalt Roofing Manufacturing apply to both existing facilities and new facilities that manufacture asphalt roofing products or oxidized asphalt that are major sources of hazardous air pollutants (HAPs) or are collocated at major sources. New facilities include those that commenced construction or reconstruction after the date of the original proposal (November 21, 2001). In general, all NESHAP standards require initial notifications, performance tests, and periodic reports by the owners/operators of the affected facilities. They are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. These notifications, reports, and records are essential in determining compliance, and are required of all affected facilities subject to NESHAP. This information is being collected to assure compliance with 40 CFR part 63, subpart LLLLL.

Form Numbers: None.

Respondents/affected entities: Asphalt processing and asphalt roofing manufacturing facilities.

Respondent's obligation to respond: Mandatory (40 CFR part 63, subpart LLLLL).

Estimated number of respondents: 8 (total).

Frequency of response: Initially, occasionally and semiannually.

Total estimated burden: 3,970 hours (per year). Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: $472,000 (per year), which includes $20,000 in annualized capital/startup and/or operation & maintenance costs.

Changes in the Estimates: There is an adjustment decrease in the total estimated burden as currently identified in the OMB Inventory of Approved Burdens. This increase is not due to any program changes. The change in the burden and cost estimates is due to more accurate estimates of existing sources based on EPA's recent re-evaluation of the source category inventory, which indicated that several facilities have shut down since the last ICR renewal period. These changes result in an overall decrease in the labor hours and O&M costs.

Courtney Kerwin,

Director, Regulatory Support Division.

[FR Doc. 2019–05983 Filed 3–27–19; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL ACCOUNTING STANDARDS ADVISORY BOARD

Notice of Issuance of Interpretation of Federal Financial Accounting Standards 8: An Interpretation of Statement of Federal Financial Accounting Standards (SFFAS) 56, Classified Activities

AGENCY: Federal Accounting Standards Advisory Board.

ACTION: Notice.

Pursuant to 31 U.S.C. 3511(d), the Federal Advisory Committee Act (Pub. L. 92–463), as amended, and the FASAB Rules Of Procedure, as amended in October 2010, notice is hereby given that the Federal Accounting Standards Advisory Board (FASAB) has issued *Interpretation of Federal Financial Accounting Standards 8: An Interpretation of Statement of Federal Financial Accounting Standards (SFFAS) 56, Classified Activities.*

Interpretation 8 will be maintained by FASAB. Due to the classified nature of Interpretation 8, contact FASAB to arrange access to Interpretation 8 as needed. FASAB will provide access to the Interpretation following appropriate security procedures. To request access to Interpretation 8 please contact Monica Valentine at *valentinem@fasab.gov.* Please provide your name, organization, and contact information.

FOR FURTHER INFORMATION CONTACT: Ms. Wendy M. Payne, Executive Director, 441 G Street NW, Suite 1155,

Washington, DC 20548, or call (202) 512–7350.

Authority: Federal Advisory Committee Act, Pub. L. 92–463.

Dated: March 15, 2019.

Wendy M. Payne,

Executive Director.

[FR Doc. 2019–06005 Filed 3–27–19; 8:45 am]

BILLING CODE 1610–02–P

FEDERAL HOUSING FINANCE AGENCY

[No. 2019–N–3]

Federal Home Loan Bank Community Support Program—Opportunity To Comment on Members Subject to Review

AGENCY: Federal Housing Finance Agency.

ACTION: Notice.

SUMMARY: The Federal Housing Finance Agency (FHFA) is announcing that FHFA will review all applicable Federal Home Loan Bank (Bank) members in 2019 under FHFA's community support requirements regulation. This Notice invites the public to comment on the community support performance of individual members.

DATES: Public comments on individual Bank members' community support performance must be submitted to FHFA on or before April 29, 2019.

ADDRESSES: Comments on members' community support performance should be submitted to FHFA by electronic mail at *hmgcommunitysupportprogram@fhfa.gov* or by fax to 202–649–4308.

FOR FURTHER INFORMATION CONTACT: Deattra Perkins, Senior Policy Analyst, at *hmgcommunitysupportprogram@fhfa.gov* or 202–649–3133, Division of Housing Mission and Goals, Federal Housing Finance Agency, Ninth Floor, 400 Seventh Street SW, Washington, DC 20219.

SUPPLEMENTARY INFORMATION:

I. Community Support Review

Section 10(g)(1) of the Federal Home Loan Bank Act (Bank Act) requires FHFA to promulgate regulations establishing standards of community investment or service that Bank members must meet in order to maintain access to long-term Bank advances. *See* 12 U.S.C. 1430(g)(1). The regulations promulgated by FHFA must take into account factors such as the Bank member's performance under the Community Reinvestment Act of 1977 (CRA), 12 U.S.C. 2901 *et seq.,* and the Bank member's record of lending to first-time homebuyers. *See* 12 U.S.C. 1430(g)(2). Pursuant to section 10(g) of the Bank Act, FHFA has promulgated a community support requirements regulation that establishes standards a Bank member must meet in order to maintain access to long-term advances, and establishes review criteria FHFA must apply in evaluating a member's community support performance. *See* 12 CFR part 1290. The regulation includes standards and criteria for the two statutory factors—members' CRA performance and members' record of lending to first-time homebuyers. 12 CFR 1290.3. Only members subject to the CRA must meet the CRA standard. 12 CFR 1290.3(a), (b). All members subject to community support review, including those not subject to the CRA, must meet the first-time homebuyer standard. 12 CFR 1290.3(c). Members that have been certified as community development financial institutions (CDFIs) are deemed to be in compliance with the community support requirements and are not subject to periodic community support review, unless the CDFI member is also an insured depository institution or a CDFI credit union. 12 CFR 1290.2(d). In addition, FHFA will not review an institution's community support performance until it has been a Bank member for at least one year. 12 CFR 1290.2(e).

Under the regulation, FHFA reviews each applicable member once every two years. Starting April 1, 2019, each member that is subject to community support review will be required to use an online form to submit to FHFA a completed Community Support Statement, executed by an appropriate senior officer of the member. All Community Support Statements for this review cycle must be submitted using the online form by October 31, 2019. FHFA will review the community support performance of each member after receiving the member's completed Community Support Statement.

II. Public Comments

FHFA encourages the public to submit comments by April 29, 2019, on the community support performance of Bank members. Each Bank is required to post a notice on its public website and to notify its Advisory Council, nonprofit housing developers, community groups, and other interested parties in its district of the opportunity to submit comments on the community support programs and activities of Bank members, with the name and address of each member subject to community support review. 12 CFR 1290.2(c)(1). FHFA may provide copies of comments received on a member's community support performance to the member's Bank, including any personal information provided by the commenter such as name, address, email address, and telephone number.

In reviewing a member for community support compliance, FHFA will consider any public comments it has received concerning the member. 12 CFR 1290.2(c)(3). To ensure consideration by FHFA, comments concerning the community support performance of members being reviewed in 2019 must be submitted to FHFA, either by electronic mail to *hmgcommunitysupportprogram@fhfa.gov,* or by fax to 202–649–4308, on or before April 29, 2019. 12 CFR 1290.2(c)(2).

The names of applicable members currently subject to Community Support review can be found on the public websites for the individual Banks at:

Federal Home Loan Bank of Boston—District 1 (Connecticut, Massachusetts, New Hampshire, Rhode Island, Vermont) *http://www.fhlbboston.com/community development/programs/support_statements.jsp*

Federal Home Loan Bank of New York—District 2 (New Jersey, New York, Puerto Rico) *http://www.fhlbny.com*

Federal Home Loan Bank of Pittsburgh—District 3 (Delaware, Pennsylvania, West Virginia) *https://www.fhlb-pgh.com/Files/Resources/CSS.pdf*

Federal Home Loan Bank of Atlanta—District 4 (Alabama, District of Columbia, Florida, Georgia, Maryland, North Carolina, South Carolina, Virginia) *https://corp.fhlbatl.com/community-support-program/*

Federal Home Loan Bank of Cincinnati—District 5 (Kentucky, Ohio, Tennessee) *https://www.fhlbcin.com*

Federal Home Loan Bank of Indianapolis—District 6 (Indiana, Michigan) *http://www.fhlbi.com*

Federal Home Loan Bank of Chicago—District 7 (Illinois, Wisconsin) *https://www.fhlbc.com/community-investment/community-support-statements*

Federal Home Loan Bank of Des Moines—District 8 (Alaska, Guam, Hawaii, Idaho, Iowa, Minnesota, Missouri, Montana, North Dakota, Oregon, South Dakota, Utah, Washington, Wyoming) *https://www.fhlbdm.com*

Federal Home Loan Bank of Dallas—District 9 (Arkansas, Louisiana, Mississippi, New Mexico, Texas)

https://www.fhlb.com/membership/Pages/Community-Support-Standards.aspx

Federal Home Loan Bank of Topeka—District 10 (Colorado, Kansas, Nebraska, Oklahoma) *https://www.fhlbtopeka.com/community-programs-community-support-statements*

Federal Home Loan Bank of San Francisco—District 11 (Arizona, California, Nevada) *http://www.fhlbsf.com/community/grant/community-support-review.aspx*

Dated: March 22, 2019.

Joseph M. Otting,

Acting Director, Federal Housing Finance Agency.

[FR Doc. 2019–05980 Filed 3–27–19; 8:45 am]

BILLING CODE 8070–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than April 25, 2019.

A. Federal Reserve Bank of St. Louis (David L. Hubbard, Senior Manager) P.O. Box 442, St. Louis, Missouri 63166–2034. Comments can also be sent electronically to *Comments.applications@stls.frb.org:*

1. *Stone BancShares, Inc., Mountain View, Arkansas;* to merge with DBT Financial Corporation, DeWitt, Arkansas and thereby indirectly acquire DeWitt Bank and Trust Company, DeWitt, Arkansas.

Board of Governors of the Federal Reserve System, March 25, 2019.

Yao-Chin Chao,

Assistant Secretary of the Board.

[FR Doc. 2019–05989 Filed 3–27–19; 8:45 am]

BILLING CODE 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 25, 2019.

A. Federal Reserve Bank of Dallas (Robert L. Triplett III, Senior Vice President) 2200 North Pearl Street, Dallas, Texas 75201–2272:

1. Texas Independent Bancshares, Inc., Texas City, Texas; to merge with Preferred Bancshares, Inc., Houston, Texas, and indirectly acquire Preferred Bank, Houston, Texas, and thereby engage in operating a savings association pursuant to section 225.28(b)(4)(ii) of Regulation Y.

Board of Governors of the Federal Reserve System, March 25, 2019.

Yao-Chin Chao,

Assistant Secretary of the Board.

[FR Doc. 2019–05987 Filed 3–27–19; 8:45 am]

BILLING CODE P

FEDERAL RESERVE SYSTEM

Agency Information Collection Activities: Announcement of Board Approval Under Delegated Authority and Submission to OMB

AGENCY: Board of Governors of the Federal Reserve System.

SUMMARY: The Board of Governors of the Federal Reserve System (Board) is adopting a proposal to extend for three years, with revision, the Financial Statements for Holding Companies (FR Y–9 family of reports) (OMB No. 7100–0128), the Financial Statements of U.S. Nonbank Subsidiaries Held by Foreign Banking Organizations (FR Y–7N family of reports) (OMB No. 7100–0125), the Bank Holding Company Report of Insured Depository Institutions' Section 23A Transactions with Affiliates (FR Y–8) (OMB No. 7100–0126), the Financial Statements of U.S. Nonbank Subsidiaries of U.S. Holding Companies (FR Y–11 family of reports) (OMB No. 7100–0244), the Domestic Finance Company Report of Consolidated Assets and Liabilities (FR 2248) (OMB No. 7100–0005), the Financial Statements of Foreign Subsidiaries of U.S. Banking Organizations (FR 2314 family of reports) (OMB No. 7100–0073), the Quarterly Savings and Loan Holding Company Report (FR 2320) (OMB No. 7100–0345), the Weekly Report of Selected Assets and Liabilities of Domestically Chartered Commercial Banks and U.S. Branches and Agencies of Foreign Banks (FR 2644) (OMB No. 7100–0075), and the Consolidated Report of Condition and Income for Edge and Agreement Corporations (FR 2886b) (OMB No. 7100–0086).

DATES: The revisions are applicable as of March 31, 2019.

FOR FURTHER INFORMATION CONTACT: Federal Reserve Board Clearance Officer—Nuha Elmaghrabi—Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, Washington, DC 20551, (202) 452–3829. Telecommunications Device for the Deaf (TDD) users may contact (202) 263–4869, Board of Governors of the Federal Reserve System, Washington, DC 20551.

SUPPLEMENTARY INFORMATION: On June 15, 1984, OMB delegated to the Board authority under the Paperwork

Reduction Act (PRA) to approve and assign OMB control numbers to collection of information requests and requirements conducted or sponsored by the Board. Board-approved collections of information are incorporated into the official OMB inventory of currently approved collections of information. Copies of the PRA Submission, supporting statements and approved collection of information instrument(s) are placed into OMB's public docket files. The Board may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

Final Approval Under OMB Delegated Authority of the Extension for Three Years, With Revision, the Following Information Collections

1. Report title: Financial Statements for Holding Companies.

Agency form number: FR Y–9C, FR Y–9LP, FR Y–9SP, FR Y–9ES, and FR Y–9CS.

OMB control number: 7100–0128.

Frequency: Quarterly, semiannually, and annually.

Respondents: Bank holding companies (BHCs), savings and loan holding companies (SLHCs), securities holding companies (SHCs), and U.S. intermediate holding companies (IHCs) (collectively, holding companies (HCs)).

Estimated number of respondents: FR Y–9C (non-advanced approaches HCs): 292; FR Y–9C (advanced approached HCs): 18; FR Y–9LP: 338; FR Y–9SP: 4,238; FR Y–9ES: 82; FR Y–9CS: 236.

Estimated average hours per response: FR Y–9C (non-advanced approaches HCs): 46.34 hours; FR Y–9C (advanced approached HCs): 47.59 hours; FR Y–9LP: 5.27 hours; FR Y–9SP: 5.40 hours; FR Y–9ES: 0.50 hours; FR Y–9CS: 0.50 hours.

Estimated annual burden hours: FR Y–9C (non-advanced approaches HCs): 54,125 hours; FR Y–9C (advanced approached HCs): 3,426 hours; FR Y–9LP: 7,125 hours; FR Y–9SP: 45,770 hours; FR Y–9ES: 41 hours; FR Y–9CS: 472 hours.

General description of report: The FR Y–9 family of reporting forms continues to be the primary source of financial data on HCs that examiners rely on between on-site inspections. Financial data from these reporting forms is used to detect emerging financial problems, review performance, conduct pre-inspection analysis, monitor and evaluate capital adequacy, evaluate HC mergers and acquisitions, and analyze an HC's overall financial condition to ensure the safety and soundness of its operations. The Board requires HCs to provide standardized financial statements to fulfill the Board's statutory obligation to supervise these organizations. HCs file the FRY–9C on a quarterly basis, FR Y–9LP quarterly, the FR Y–9SP semiannually, the FR Y–9ES annually, and the FR Y–9CS on a schedule that is determined when this supplement is used.

2. *Report title:* The Financial Statements of U.S. Nonbank Subsidiaries Held by Foreign Banking Organizations, Abbreviated Financial Statements of U.S. Nonbank Subsidiaries Held by Foreign Banking Organizations, and the Capital and Asset Report of Foreign Banking Organizations.

Agency form number: FR Y–7N, FR Y–7NS, and FR Y–7Q.

OMB control number: 7100–0125.

Frequency: Quarterly and annually.

Respondents: Foreign banking organizations (FBOs).

Estimated number of respondents: FR Y–7N (quarterly): 35; FR Y–7N (annually): 19; FR Y–7NS: 22; FR Y–7Q (quarterly): 130; FR Y–7Q (annually): 29.

Estimated average hours per response: FR Y–7N (quarterly): 7.6 hours; FR Y–7N (annually): 7.6 hours; FR Y–7NS: 1 hour; FR Y–7Q (quarterly): 3 hours; FR Y–7Q (annually): 1.5 hours.

Estimated annual reporting hours: FR Y–7N (quarterly): 1,064 hours; FR Y–7N (annually): 144 hours; FR Y–7NS: 22 hours; FR Y–7Q (quarterly): 1,560 hours; FR Y–7Q (annually): 44 hours.

General Description of Report: The FR Y–7N and the FR Y–7NS are used to assess an FBO's ability to be a continuing source of strength to its U.S. operations and to determine compliance with U.S. laws and regulations. FBOs file the FR Y–7N quarterly or annually or the FR Y–7NS annually predominantly based on asset size thresholds. The FR Y–7Q is used to assess consolidated regulatory capital and asset information from all FBOs. The FR Y–7Q is filed quarterly by FBOs that have effectively elected to become or be treated as a U.S. financial holding company (FHC) and by FBOs that have total consolidated assets of $50 billion or more, regardless of FHC status. All other FBOs file the FR Y–7Q annually.

3. Report title: Bank Holding Company Report of Insured Depository Institutions' Section 23A Transactions with Affiliates.

Agency form number: FR Y–8.

OMB control number: 7100–0126.

Frequency: Quarterly.

Respondents: BHCs, SLHCs, and FBOs.

Estimated number of respondents: 933.

Estimated average hours per response: 7.8 hours.

Estimated annual burden hours: 29,110 hours.

General description of report: The FR Y–8 collects information on covered transactions between an insured depository institution and its affiliates that are subject to the quantitative limits and requirements of section 23A of the Federal Reserve Act and the Board's Regulation W (12 CFR 223). The FR Y–8 is filed quarterly by all U.S. top-tier BHCs and SLHCs, and by FBOs that directly own or control a U.S. subsidiary insured depository institution. If an FBO indirectly controls a U.S. insured depository institution through a U.S. holding company, the U.S. holding company must file the FR Y–8. A respondent must file a separate report for each U.S. insured depository institution it controls. The primary purpose of the data is to enhance the Board's ability to monitor the credit exposure of insured depository institutions to their affiliates and to ensure that insured depository institutions are in compliance with section 23A of the Federal Reserve Act and Regulation W. Section 23A of the Federal Reserve Act limits an insured depository institution's exposure to affiliated entities and helps to protect against the expansion of the federal safety net to uninsured entities.

4. Report title: Financial Statements of U.S. Nonbank Subsidiaries of U.S. Holding Companies and the Abbreviated Financial Statements of U.S. Nonbank Subsidiaries of U.S. Holding Companies.

Agency form number: FR Y–11 and FR Y–11S.

OMB control number: 7100–0244.

Frequency: Quarterly and annually.

Respondents: Domestic bank holding companies, SLHCs, SHCs, and IHCs (collectively, holding companies (HCs)).

Estimated number of respondents: FR Y–11 (quarterly): 445; FR Y–11 (annually): 189; FR Y–11S: 273.

Estimated average hours per response: FR Y–11 (quarterly): 7.6; FR Y–11 (annually): 7.6; FR Y–11S: 1.

Estimated annual reporting hours: FR Y–11 (quarterly): 13,528 hours; FR Y–11 (annually): 1,436 hours; FR Y–11S: 273 hours.

General Description of Report: The FR Y–11 family of reports collects financial information for individual U.S. nonbank subsidiaries of domestic HCs, which is essential for monitoring the subsidiaries' potential impact on the condition of the HC or its subsidiary banks. HCs file the FR Y–11 on a

quarterly or annual basis or the FR Y–11S on an annual basis, predominantly based on whether the organization meets certain asset size thresholds.

5. *Report title:* Domestic Finance Company Report of Consolidated Assets and Liabilities.

Agency form number: FR 2248.

OMB control number: 7100–0005.

Frequency: Monthly, quarterly and semi-annually.

Respondents: Domestic finance companies and mortgage companies.

Estimated number of respondents: 150.

Estimated average hours per response: Monthly: 0.33 hours; quarterly: 0.50 hours; semi-annual addendum: 0.17 hours.

Estimated annual burden hours: Monthly, 400 hours; quarterly, 300 hours; semi-annual addendum: 50 hours.

General description of report: The FR 2248 collects information on amounts outstanding in major categories of consumer and business credit held by finance companies and on major short-term liabilities of the finance companies. For quarter-end months (March, June, September, and December), the report also collects information on other assets and liabilities outstanding as well as information on capital accounts in order to provide a full balance sheet. In addition, a supplemental section collects data about assets that have been pooled by finance companies and sold to third parties that issue securities based on those assets. The supplemental section is organized in the same four categories of credit (consumer, real estate, business, and lease-related). The special addendum section may be used if the need arises for the collection of timely information on questions of immediate concern to the Board. When necessary, respondents would be asked no more than twice a year to provide answers to a limited number of relevant questions, which would be distributed in advance to ease burden and which would take, on average, ten minutes to complete. This addendum provides the Board a valuable source of information regarding timely topics and events in financial markets.

6. Report title: Financial Statements of Foreign Subsidiaries of U.S. Banking Organizations and the Abbreviated Financial Statements of Foreign Subsidiaries of U.S. Banking Organizations.

Agency form number: FR 2314 and FR 2314S.

OMB control number: 7100–0073.

Frequency: Quarterly and annually.

Respondents: U.S. state member banks (SMBs), BHCs, SLHCs, IHCs, and Edge or agreement corporations.

Estimated number of respondents: FR 2314 (quarterly): 439; FR 2314 (annually): 239; FR 2314S: 300.

Estimated average hours per response: FR 2314 (quarterly): 7.2 hours; FR 2314 (annually): 7.2 hours; FR 2314S: 1 hour.

Estimated annual reporting hours: FR 2314 (quarterly): 12,643 hours; FR 2314 (annually): 1,768 hours; FR 2314S: 300 hours.

General description of report: The FR 2314 family of reports is the only source of comprehensive and systematic data on the assets, liabilities, and earnings of the foreign nonbank subsidiaries of U.S. banking organizations, and the data are used to monitor the growth, profitability, and activities of these foreign companies. The data help the Board identify present and potential problems of these companies, monitor their activities in specific countries, and develop a better understanding of activities within the industry and within specific institutions. Parent organizations (SMBs, Edge and agreement corporations, or HCs) file the FR 2314 on a quarterly or annual basis, or the FR 2314S on an annual basis, predominantly based on whether the organization meets certain asset size thresholds.

7. Report Title: Quarterly Savings and Loan Holding Company Report.

Agency form number: FR 2320.

OMB control number: 7100–0345.

Frequency: Quarterly.

Respondents: SLHCs that are currently exempt from filing other Board regulatory reports.

Estimated number of respondents: 13.

Estimated average hours per response: 2.5 hours.

Estimated annual burden hours: 130 hours.

General Description of Report: The FR 2320 collects select parent only and consolidated balance sheet and income statement financial data and organizational structure data from

SLHCs that are currently exempt from filing other Board regulatory reports (exempt SLHCs). The FR 2320 is used by the Board to analyze the overall financial condition of exempt

SLHCs to ensure safe and sound operations. These data assist the Board in the evaluation of a diversified HC and in determining whether an institution is in compliance with applicable laws and regulations.

8. Report title: Weekly Report of Selected Assets and Liabilities of Domestically Chartered

Commercial Banks and U.S. Branches and Agencies of Foreign Banks.

Agency form number: FR 2644.

OMB control number: 7100–0075.

Frequency: Weekly.

Respondents: Domestically chartered commercial banks and U.S. branches and agencies of foreign banks.

Estimated number of respondents: 875.

Estimated average hours per response: 2.35 hours.

Estimated annual burden hours: 106,925 hours.

General description of report: The FR 2644 is a balance sheet report that is collected as of each Wednesday from an authorized stratified sample of 875 domestically chartered commercial banks and U.S. branches and agencies of foreign banks. The FR 2644 is the only source of high-frequency data used in the analysis of current banking developments. The FR 2644 collects sample data that are used to estimate universe levels using data from the quarterly commercial bank Consolidated Reports of Condition and Income (FFIEC 031, FFIEC 041, and FFIEC 051; OMB No. 7100–0036) and the Report of Assets and Liabilities of U.S. Branches and Agencies of Foreign Banks (FFIEC 002; OMB No. 7100–0032) (Call Reports). Data from the FR 2644, together with data from other sources, are used to construct weekly estimates of bank credit, balance sheet data for the U.S. banking industry, and sources and uses of banks' funds and to analyze current banking and monetary developments. The Board publishes the data in aggregate form in the weekly H.8 statistical release, Assets and Liabilities of Commercial Banks in the United States, which is followed closely by other government agencies, the banking industry, the financial press, and other users. The H.8 release provides a balance sheet for the banking industry as a whole and data disaggregated by its large domestic, small domestic, and foreign-related bank components.

9. Report title: Consolidated Report of Condition and Income for Edge and Agreement Corporations.

Agency form number: FR 2886b.

OMB control number: 7100–0086.

Frequency: Quarterly and annually.

Respondents: Banking Edge and agreement corporations and investment Edge and agreement corporations.

Estimated number of respondents: Banking Edge and agreement corporations (quarterly): 9; banking Edge and agreement corporations (annually): 1; investment Edge and agreement corporations (quarterly): 21; investment Edge and agreement corporations (annually): 7.

Estimated average hours per response: Banking Edge and agreement

corporations (quarterly): 15.77; banking Edge and agreement corporations (annually): 15.87; investment Edge and agreement corporations (quarterly): 11.81; investment Edge and agreement corporations (annually): 10.82.

Estimated annual reporting hours: Banking Edge and agreement corporations (quarterly): 568; banking Edge and agreement corporations (annually): 16; investment Edge and agreement corporations (quarterly): 922; investment Edge and agreement corporations (annually): 76.

General description of report: The FR 2886b reporting form is filed quarterly and annually by banking Edge and agreement corporations and investment (nonbanking) Edge and agreement corporations. The mandatory FR 2886b comprises an income statement with two schedules reconciling changes in capital and reserve accounts and a balance sheet with 11 supporting schedules. Other than examination reports, it provides the only financial data available for these corporations. The Board is solely responsible for authorizing, supervising, and assigning ratings to Edge and agreement corporations. The Board uses the data collected on the FR 2886b to identify present and potential problems and monitor and develop a better understanding of activities within the industry.

Adopted Revisions

The Board adopted revisions to (1) implement changes to address the revised accounting standards for the adoption of the current expected credit loss (CECL) methodology across all of the reports, (2) extend for three years through the normal delegated review process certain revisions to the FR Y–9C that the Board previously approved on a temporary basis [1] in order to implement changes consistent with Section 214 and Section 202 of the Economic Growth, Regulatory Relief, and Consumer Protection Act (EGRRCPA) pertaining to the risk-weighting of high volatility commercial real estate (HVCRE) exposures and the treatment of reciprocal deposits, (3) clarify reporting of unrealized holding gains and losses on equity securities on the FR Y–9C report, and (4) make several revisions to the FR 2886b report, including updating references to applicable capital requirements, revising the eligibility criteria for reporting the trading schedule and implement changes pertaining to the accounting treatment of equity securities.

The reporting changes related to CECL are tied to the approved regulatory capital rules related to the implementation and capital transition for CECL (CECL Rule) [2] by the Board, the Federal Deposit Insurance Corporation (FDIC), and the Office of the Comptroller of the Currency (OCC) (collectively, the agencies), and to the corresponding CECL revisions to the Consolidated Reports of Condition and Income (Call Reports) (FFIEC 031, FFIEC 041, and FFIEC 051; OMB No. 7100–0036).[3]

The effective dates for adopting CECL vary depending on whether a firm is a public business entity (PBE), a Securities and Exchange Commission (SEC) report filer, or an early adopter. For institutions that are PBEs and also are SEC filers, as both terms are defined in U.S. Generally Accepted Accounting Principles (GAAP), the new credit losses standard is effective for fiscal years beginning after December 15, 2019, including interim periods within those fiscal years. For a PBE that is not an SEC filer, the credit losses standard is effective for fiscal years beginning after December 15, 2020, including interim periods within those fiscal years. For an institution that is not a PBE, the credit losses standard is effective for fiscal years beginning after December 15, 2020, and for interim period financial statements for fiscal years beginning after December 15, 2021. For regulatory reporting purposes, early application of the new credit losses standard will be permitted for all institutions for fiscal years beginning after December 15, 2018, including interim periods within those fiscal years. See Appendix A for more details surrounding CECL adoption by entity type, as well as the table summarizing the possible effective dates.[4]

Due to the different effective dates for Accounting Standards Update (ASU) 2016–13, the period over which institutions may be implementing this ASU ranges from the first quarter of 2019 through the fourth quarter of 2022. December 31, 2022, will be the first quarter-end of which all institutions would be required to prepare their reports in accordance with ASU 2016–13. It is expected that the majority of institutions will implement the standard in the first or fourth quarter of 2021. Schedule titles or specific data item captions resulting from the change in nomenclature upon the adoption of CECL generally would not be reflected in the reporting forms until March 31, 2021, as outlined in the following schedule-by-schedule descriptions of the changes to the affected reporting schedules.

Because of the staggered adoption dates, the Board is implementing the CECL revisions in stages. First, the Board revised the reporting form and instructions and added data items and schedules for certain impacted reports effective for March 31, 2019. The changes included guidance stating how institutions that have adopted ASU–2016–13 should report the data items related to the ''provision for credit losses'' and ''allowance for credit losses, as applicable. Next, for the transition period from March 31, 2021, through December 31, 2022, the reporting form and instructions for each impacted schedule title or data item will be updated to include guidance stating how institutions that have not adopted ASU 2016–13 should report the ''provision for loan and lease losses'' or the ''allowance for loan and lease losses (ALLL),'' as applicable.

The table below summarizes the effective dates for the 2019 and 2021 CECL revisions.

Report	Add items, add, footnotes and or revise instructions	Revise item captions
FR 2644	03/27/2019	01/06/2021
FR 2248	03/31/2019	01/31/2021
FR 2320	03/31/2019	.....
FR Y–8	03/31/2019	.....
FR Y–9C	03/31/2019	03/31/2021
FR Y–9LP	03/31/2019	03/31/2021
FR 2314/S	03/31/2019	03/31/2021
FR Y–11/S	03/31/2019	03/31/2021
FR 2886b	03/31/2019	03/31/2021
FR Y–7N/NS	03/31/2019	03/31/2021
FR Y–9SP	06/30/2019	06/30/2021

CECL Revisions

The Board is adopting revisions to all regulatory reports listed in the Summary section in response to ASU 2016–13 in order to align the information reported with the new standard as it relates to the credit losses for loans and leases, including off-balance sheet credit exposures. These revisions address the broadening of the scope of financial assets for which an allowance for credit losses assessment must be established and maintained, along with the

[1] See 83 FR 48990 (September 28, 2018).

[2] See *https://www.federalreserve.gov/newsevents/pressreleases/bcreg20181221a.htm.*

[3] See 84 FR 4131 (February 14, 2019).

[4] See CECL FAQs, question 36, for examples of how and when institutions with non-calendar fiscal years must incorporate the new credit losses standard into their regulatory reports. The CECL FAQs and a related link to the joint statement can be found on the Board's website: *https://www.federalreserve.gov/supervisionreg/srletters/sr1708a1.pdf.*

elimination of the existing model for purchased credit-impaired (PCI) assets. The revisions for the FR Y–9C are described in detail, mostly on a schedule-by-schedule basis. The CECL revisions to all the other reports mirror the revisions to the FR Y–9C, where applicable.

CECL is applicable to all financial instruments carried at amortized cost (including loans held for investment (HFI) and held-to-maturity (HTM) debt securities, as well as trade and reinsurance receivables and receivables that relate to repurchase agreements and securities lending agreements), net investments in leases, and off-balance-sheet credit exposures not accounted for as insurance, including loan commitments, standby letters of credit, and financial guarantees. Under ASU 2016–13, institutions will record credit losses through an allowance for credit losses for available-for-sale (AFS) debt securities rather than as a write-down through earnings for other-than-temporary impairment (OTTI). The broader scope of financial assets for which allowances must be estimated under ASU 2016–13 results in the reporting of additional allowances, and related charge-off and recovery data and changes to the terminology used to describe allowances for credit losses. To address the broader scope of assets that will have allowances under ASU 2016–13, the Board changed the allowance nomenclature to consistently use ''allowance for credit losses'' followed by the specific asset type as relevant, *e.g.,* ''allowance for credit losses on loans and leases'' and ''allowance for credit losses on HTM debt securities.

By broadening the scope of financial assets for which the need for allowances for credit losses must be assessed to include HTM and AFS debt securities, the new standard eliminates the existing OTTI model for such securities. Subsequent to a firm's adoption of ASU 2016–13, the concept of OTTI will no longer be relevant and information on OTTI will no longer be captured.

The new standard also eliminates the separate impairment model for PCI loans and debt securities. Under CECL, credit losses on purchased credit deteriorated (PCD) financial assets are subject to the same credit loss measurement standard as all other financial assets carried at amortized cost. Subsequent to an institution's adoption of ASU 2016–13, information on PCI loans will no longer be captured.

While the standard generally does not change the scope of off-balance sheet credit exposures subject to an allowance for credit loss assessment, the standard does change the period over which the firm should estimate expected credit losses. For off-balance sheet credit exposures, a firm will estimate expected credit losses over the contractual period in which they are exposed to credit risk. For the period of exposure, the estimate of expected credit losses should consider both the likelihood that funding will occur and the amount expected to be funded over the estimated remaining life of the commitment or other off-balance sheet exposure. In contrast to the existing practices, the FASB decided that no credit losses should be recognized for off-balance sheet credit exposures that are unconditionally cancellable by the issuer. The exclusion of unconditionally cancellable commitments from the allowance for credit losses assessment on off-balance sheet credit exposures requires clarification to applicable reporting instructions.

As of the new accounting standard's effective date, institutions will apply the standard based on the characteristics of financial assets as follows:

• *Financial assets carried at amortized cost (that are not PCD assets) and net investments in leases:* A cumulative-effect adjustment for the changes in the allowances for credit losses will be recognized in retained earnings, net of applicable taxes, as of the beginning of the first reporting period in which the new standard is adopted. The cumulative-effect adjustment to retained earnings should be reported in FR Y–9C Schedule HI–A, item 2, ''Cumulative effect of changes in accounting principles and corrections of material accounting errors,'' and explained in Notes to the Income Statement for which a preprinted caption, ''Adoption of Current Expected Credit Losses Methodology—ASC Topic 326,'' will be provided in the text field for this item.

• *PCD financial assets:* Financial assets classified as PCI assets prior to the effective date of the new standard will be classified as PCD assets as of the effective date. For all financial assets designated as PCD assets as of the effective date, an institution will be required to gross up the balance sheet amount of the financial asset by the amount of its allowance for expected credit losses as of the effective date, resulting in an adjustment to the amortized cost basis of the asset to reflect the addition of the allowance for credit losses as of that date. For loans held for investment and HTM debt securities, this allowance gross-up as of the effective date of ASU 2016–13 should be reported in the appropriate columns of Schedule HI–B, Part II, item 6, ''Adjustments,'' and should be explained in the Notes to the Income Statement for which a preprinted caption, ''Effect of adoption of current expected credit losses methodology on allowances for credit losses on loans and leases held for investment and held-to-maturity debt securities,'' will be provided in the text field for this item. Subsequent changes in the allowance for credit losses on PCD financial assets will be recognized by charges or credits to earnings through the provision for credit losses. The institution will continue to accrete the noncredit discount or premium to interest income based on the effective interest rate on the PCD financial assets determined after the gross-up for the CECL allowance as of the effective date of adoption, except for PCD financial assists in nonaccrual status.

• *AFS and HTM debt securities:* A debt security on which OTTI had been recognized prior to the effective date of the new standard will transition to the new guidance prospectively (*i.e.,* with no change in the amortized cost basis of the security). The effective interest rate on such a debt security before the adoption date will be retained and locked in. Amounts previously recognized in accumulated other comprehensive income (AOCI) related to cash flow improvements will continue to be accreted to interest income over the remaining life of the debt security on a level-yield basis. Recoveries of amounts previously written off relating to improvements in cash flows after the date of adoption will be recognized in income in the period received.

Schedule HI

To address the broader scope of financial assets for which a provision will be calculated under ASU 2016–13, the Board revised Schedule HI, item 4, from ''Provision for loan and lease losses'' to ''Provision for Credit losses on financial assets,'' effective March 31, 2021. To address the elimination of the concept of OTTI by ASU 2016–13, effective December 31, 2022, the Board removed Schedule HI, Memorandum item 17, ''Other-than-temporary impairment losses on held-to-maturity and available-for-sale debt securities recognized in earnings.'' Under the new standard, institutions will recognize credit losses on HTM and AFS debt securities through an allowance for credit losses, and the Board will collect information on the allowance for credit losses on these two categories of debt securities in Schedule HI–B as discussed below. From March 31, 2019, through September 30, 2022, the report

form and instructions for Memorandum item 17 include guidance stating that Memorandum item 17 is to be completed only by institutions that have not adopted ASU 2016–13.

Schedule HI–B

To address the broader scope of financial assets for which allowances will be calculated under ASU 2016–13 and for which charge-offs and recoveries will be applicable, the Board changed the title of Schedule HI–B effective March 31, 2021, from ''Charge-offs and Recoveries on Loans and Leases and Changes in Allowance for Loan and Lease Losses'' to ''Charge-offs and Recoveries on Loans and Leases and Changes in Allowance for Credit Losses.''

In addition, effective March 31, 2021, to address the change in allowance nomenclature arising from the broader scope of allowances under ASU 2016–13, the Board revised Schedule HI–B, Part I, Memorandum item 4, from ''Uncollectible retail credit card fees and finance charges reversed against income (*i.e.,* not included in charge-offs against the allowance for loan and lease losses)'' to ''Uncollectible retail credit card fees and finance charges reversed against income (*i.e.,* not included in charge-offs against the allowance for credit losses on loans and leases).''

To further address the broader scope of financial assets for which allowances will be calculated under ASU 2016–13, the Board revised Schedule HI–B, Part II, to also include changes in the allowances for credit losses on HTM and AFS debt securities. Effective March 31, 2019, the Board changed the title of Schedule HI–B, Part II, from ''Changes in Allowance for Loan and Lease Losses'' to ''Changes in Allowances for Credit Losses.''

In addition, effective March 31, 2019, Schedule HI–B, Part II, was expanded from one column to a table with three columns titled:

- Column A: Loans and leases held for investment
- Column B: Held-to-maturity debt securities
- Column C: Available-for-sale debt securities

From March 31, 2019, through September 30, 2022, the reporting form and the instructions for Schedule HI–B, Part II, include guidance stating that Columns B and C are to be completed only by institutions that have adopted ASU 2016–13.

In addition, effective March 31, 2019, Schedule HI–B, Part II, item 4, was revised from ''Less: Write-downs arising from transfers of loans to a held-for-sale account'' to ''Less: Write-downs arising from transfers of financial assets'' to capture changes in allowances from transfers of loans from held-to-investment to held-for-sale and from transfers of securities between categories, *e.g.,* from the AFS to the HTM category. Further, effective March 31, 2019, Schedule HI–B, Part II, item 5, was revised from ''Provision for loan and lease losses'' to ''Provision for credit losses'' to capture the broader scope of financial assets included in the schedule.

Effective March 31, 2019, or the first quarter in which an HC reports its adoption of ASU 2016–13, whichever is later, Schedule HI–B, Part II, item 6, ''Adjustments,'' will be used to capture the initial impact of applying ASU 2016–13 as of the effective date in the period of adoption as well as the initial allowance gross-up for PCD assets as of the effective date. Item 6 also will be used to report the allowance gross-up upon the acquisition of PCD assets on or after the effective date.

In the memorandum section of Schedule HI–B, Part II, to address the change in allowance nomenclature arising from the broader scope of allowances under ASU 2016–13 the Board revised the caption for Memorandum item 3, effective March 31, 2021, from ''Amount of allowance for loan and lease losses attributable to retail credit card fees and finance charges'' to ''Amount of allowance for credit losses on loans and leases attributable to retail credit card fees and finance charges.'' Also, in the memorandum section of Schedule HI–B, Part II, effective December 31, 2022, the Board has removed existing Memorandum item 4, ''Amount of allowance for post-acquisition credit losses on purchased credit impaired loans accounted for in accordance with the American Institute of Certified Public Accountants (AICPA) Statement of Position 03–3'' as ASU 2016–13 eliminates the concept of PCI loans and the separate credit impairment model for such loans. From March 31, 2019, through September 30, 2022, the reporting form and instructions for Schedule HI–B, Part II, Memorandum item 4, specify that this item should be completed only by institutions that have not yet adopted ASU 2016–13.

Given that the scope of ASU 2016–13 is broader than the three financial asset types to be included in the table in Schedule HI–B, Part II, effective March 31, 2019, the Board added new Memorandum item 5, ''Provisions for credit losses on other financial assets carried at amortized cost,'' and Memorandum item 6, ''Allowance for credit losses on other financial assets carried at amortized cost,'' to Schedule HI–B, Part II, at the same time. For purposes of Memorandum items 5 and 6, other financial assets include all financial assets measured at amortized cost other than loans and leases held for investment and HTM debt securities. From March 31, 2019, through September 30, 2022, the reporting form and instructions for Schedule HI–B, Part II, include guidance stating that Memorandum items 5 and 6 are to be completed only by institutions that have adopted ASU 2016–13.

Schedule HI–C

Schedule HI–C currently requests allowance information for specific categories of loans held for investment that is disaggregated on the basis of three separate credit impairment models, and the amounts of the related recorded investments, from institutions with $1 billion or more in total assets. ASU 2016–13 eliminates these separate credit impairment models and replaces them with CECL for all financial assets measured at amortized cost. As a result of this change, effective March 31, 2021, the Board changed the title of Schedule HI–C from ''Disaggregated Data on the Allowance for Loan and Lease Losses'' to ''Disaggregated Data on Allowances for Credit Losses.''

To capture disaggregated data on allowances for credit losses from institutions that have adopted ASU 2016–13, the Board created Schedule HI–C, Part II, ''Disaggregated Data on Allowances for Credit Losses,'' effective March 31, 2019. The existing table in Schedule HI–C, which includes items 1 through 6 and columns A through F, would be renamed ''Part I. Disaggregated Data on the Allowance for Loan and Lease Losses.'' From March 31, 2019 through September 30, 2022, the reporting form and instructions for Schedule HI–C, Part I, will include guidance stating that only those institutions that have not adopted ASU 2016–13 should complete Schedule HI–C, Part I.

Part II of this schedule contains six loan portfolio categories and the unallocated category for which data are currently collected in existing Schedule HI–C along with the following portfolio categories for which allowance information will begin to be reported for HTM debt securities.

The Board reevaluated the proposed portfolio categories for which disaggregated allowance information would begin to be reported by institutions after adoption of ASU 2016–13 for HTM debt securities on Schedule HI–C, Part II, on the FR Y–9C. The

Board determined that separate reporting of allowances on HTM mortgage-backed securities issued or guaranteed by U.S. government agencies or sponsored agencies and other HTM mortgage-backed securities is not needed because, at present, the former category of mortgage-backed securities would likely have zero expected credit losses. As a result, the Board will combine these portfolio categories and collect only one data item, rather than two data items, for the total allowances on an institution's HTM mortgage-backed securities:

1. Securities issued by states and political subdivisions in the U.S;
2. Mortgage-backed securities (MBS) (including CMOs, REMICs, and stripped MBS);
3. Asset-backed securities and structured financial products;
4. Other debt securities;
5. Total.

For each category of loans in Part II of Schedule HI–C, institutions report the amortized cost and the allowance balance in Columns A and B, respectively. The amortized cost amounts to be reported would exclude the accrued interest receivable that is reported in ''Other assets'' on the balance sheet. For each category of HTM debt securities in Part II of Schedule HI–C, institutions would report the allowance balance. The amortized cost and allowance information on loans and the allowance information on HTM debt securities would be reported quarterly and would be completed only by institutions with $1 billion or more in total assets, as is currently done with existing Part I of Schedule HI–C.

The Board will use the securities-related information gathered in Part II of the schedule to monitor the allowance levels for the categories of HTM debt securities specified above. Further, with the removal of FR Y–9C item for OTTI losses recognized in earnings (Schedule HI, Memorandum item 17), Schedule HI–C, Part II, will become another source of information regarding credit losses of HTM debt securities, in addition to data reported in Schedule HI–B, Part II. From March 31, 2019, through September 30, 2022, the reporting form and instructions for Schedule HI–C, Part II, include guidance stating that only those institutions with $1 billion or more in total assets that have adopted ASU 2016–13 should complete Schedule HI–C, Part II.

In addition, effective December 31, 2022, the Board will remove the existing Schedule HI–C, Part I. Schedule HI–C, Part II, would then be the only table remaining within this schedule and the ''Part II'' designation would be removed.

Notes to the Income Statement—Predecessor Financial Items

Effective March 31, 2021, the Board will address the broader scope of financial assets for which a provision will be calculated under ASU 2016–13. From March 31, 2019, through September 30, 2022, the reporting form and instructions for line item 4, ''Provision for loan and lease losses,'' includes guidance that only institutions that have adopted ASU 2016–13 should report the provision for credit losses in this item. Effective March 31, 2021, the Board will revise line item 4 from ''Provision for Loan and Lease losses'' to ''Provision for Credit Losses.''

Notes to the Income Statement

Effective March 31, 2019, the Board added a preprinted caption to the text field that would be titled ''Adoption of Current Expected Credit Losses Methodology—ASC Topic 326.'' Institutions will use this item to report the cumulative-effect adjustment (net of applicable income taxes) recognized in retained earnings for the changes in the allowances for credit losses on financial assets and off-balance sheet credit exposures as of the beginning of the fiscal year in which the institution adopts ASU 2016–13. Providing a preprinted caption for this data item, rather than allowing each HC to enter its own description for this cumulative-effect adjustment, will enhance the Board's ability to compare the impact of the adoption of ASU 2016–13 across institutions. From March 31, 2019 through December 31, 2022, the reporting form and instructions for Notes to the Income Statement, specify that this item is to be completed only in the quarter-end FR Y–9C for the remainder of the calendar year in which an HC adopts ASU 2016–13. The Board anticipates that this preprinted caption would be removed after all HCs have adopted ASU 2016–13.

To address the broader scope of financial assets for which an allowance will be maintained under ASU 2016–13, effective March 31, 2019, the Board added two preprinted captions to the text field that would be titled ''Initial allowances for credit losses recognized upon the acquisition of purchased deteriorated assets on or after the effective date of ASU 2016–13'' and ''Effect of adoption of current expected credit losses methodology on allowances for credit losses on loans and leases held for investment and held-to-maturity debt securities.'' The latter of these preprinted captions is used to capture the change in the amount of allowances from initially applying ASU 2016–13 on these two categories of assets as of the effective date of the accounting standard in the period of adoption, including the initial gross-up for any PCD assets held as of the effective date. From March 31, 2019, through September 30, 2022, the reporting form and instructions specify that these items are to be completed only by HCs that have adopted ASU 2016–13 and, for the latter preprinted caption, only in the quarter-end FR Y–9C report for the remainder of the calendar year in which an institution adopts ASU 2016–13. The Board anticipates the latter preprinted caption would be removed after all institutions have adopted ASU 2016–13.

Schedule HC

To address the broader scope of financial assets for which allowances will be estimated under ASU 2016–13, the Board revised the reporting form and instructions to specify which assets should be reported net of an allowance for credit losses on the balance sheet and which asset categories should be reported gross of such an allowance. The Board determined that the only financial asset category for which separate (*i.e.,* gross) reporting of the amortized cost [5] and the allowance is needed on Schedule HC continues to be item 4.b, ''Loans and leases held for investment,'' because of the large relative size and importance of these assets and their related allowances to the overall balance sheet for most institutions. For other financial assets within the scope of CECL, the Board instructed HCs to report these assets at amortized cost [6] net of the related allowance for credit losses on Schedule HC.

Effective March 31, 2021, the Board revised Schedule HC, item 2.a, from ''Held-to-maturity securities'' to ''Held-to-maturity securities, net of allowance for credit losses.'' From March 31, 2019, through December 31, 2020, the Board added a footnote to Schedule HC, item 2.a, specifying that HCs should ''report this amount net of any applicable allowance for credit losses.'' Additionally, for Schedule HC, item 3.b, ''Securities purchased under agreements to resell,'' and Schedule HC, item 11, ''Other assets,'' effective March 31, 2019, the Board added a footnote to these items specifying that HCs should ''report this amount net of any

[5] Amortized cost amounts to be reported by asset category would exclude any accrued interest receivable on assets in that category that is reported in ''Other assets'' on the balance sheet.

[6] See footnote 10.

applicable allowance for credit losses.'' From March 31, 2019, through September 30, 2022, the reporting form and the instructions for Schedule HC, items 2.a, 3.b, and 11, specify that reporting such items net of any related allowances for credit losses is applicable only to those institutions that have adopted ASU 2016–13. Given that AFS debt securities are carried on Schedule HC at fair value, the Board did not propose any changes to Schedule HC, item 2.b, ''Available-for-sale securities,'' and instead institutions will report allowances for credit losses on AFS debt securities only in Schedule HI–B, Part II.

In addition, to address the change in allowance nomenclature arising from the broader scope of allowances under ASU 2016–13, the Board revised Schedule HC, item 4.c, from ''LESS: Allowance for loan and lease losses'' to ''LESS: Allowance for credit losses on loans and leases'' effective March 31, 2021. Effective March 31, 2019, the Board added a footnote to this item specifying that institutions who have adopted ASU 2016–13 should report the allowance for credit losses on loans and leases in this item.

Schedule HC–B

Effective March 31, 2019, the Board revised the instructions to Schedule HC–B to clarify that for institutions that have adopted ASU 2016–13, allowances for credit losses should not be deducted from the amortized cost amounts reported in columns A and C of this schedule.[7] In other words, institutions should continue reporting the amortized cost of HTM and AFS debt securities in these two columns of Schedule HC–B gross of their related allowances for credit losses.

Schedule HC–C

Effective March 31, 2021, to address the change in allowance nomenclature, the Board will revise the reporting form and the instructions for Schedule HC–C by replacing references to the allowance for loan and lease losses in statements indicating that the allowance should not be deducted from loans and leases in this schedule with references to the allowance for credit losses. Thus, loans and leases will continue to be reported gross of any allowances or allocated transfer risk reserve in Schedule HC–C.

In addition, to address the elimination of PCI assets by ASU 2016–13, the Board will remove Schedule HC–C, Part I, Memorandum items 5.a and 5.b, in which institutions report the outstanding balance and balance sheet amount, respectively, of PCI loans held for investment effective December 31, 2022. The agencies determined that these items were not needed after the transition to PCD loans under ASU 2016–13 because the ASU eliminates the separate credit impairment model for PCI loans and applies CECL to all loans held for investment measured at amortized cost. From March 31, 2019, through September 30, 2022, the reporting form and the instructions for Schedule HC–C, Memorandum items 5.a and 5.b, specify that these items should be completed only by institutions that have not yet adopted ASU 2016–13.

Additionally, since ASU 2016–13 supersedes ASC 310–30, the Board will revise Schedule HC–C, Memorandum item 12, ''Loans (not subject to the requirements of AICPA Statement of Position 03–3) and leases held for investment that were acquired in business combinations with acquisition dates in the current calendar year,'' effective December 31, 2022. As revised, the loans held for investment reported in Memorandum item 12 will be those not considered purchased credit deteriorated per ASC 326. From March 31, 2019, through September 30, 2022, the Board revised the reporting form and the instructions for Schedule HC–C, by adding a statement explaining that, subsequent to adoption of ASU 2016–13, an HC should report only loans held for investment not considered purchased credit deteriorated per ASC 326 in Schedule HC–C, Memorandum item 12.

Schedule HC–F

To address the broader scope of financial assets for which an allowance will be applicable under ASU 2016–13, the Board specified that assets within the scope of the ASU that are included in Schedule HC–F should be reported net of any applicable allowances for credit losses. Effective March 31, 2019, the Board revised the reporting form and the instructions for Schedule HC–F by adding a statement explaining that, subsequent to adoption of ASU 2016–13, an HC should report asset amounts in Schedule HC–F net of any applicable allowances for credit losses.

In addition, effective March 31, 2019, the Board added a footnote to item 1, ''Accrued interest receivable,'' on the reporting form and a statement to the instructions for item 1 that specifies that HCs should exclude from this item any accrued interest receivables that is reported elsewhere on the balance sheet as part of the related financial asset's amortized cost.

Schedule HC–G

To address ASU 2016–13's exclusion of off-balance sheet credit exposures that are unconditionally cancellable from the scope of off-balance sheet credit exposures for which allowances for credit losses should be measured, the Board revised the reporting form and instructions for Schedule HC–G, item 3, ''Allowance for credit losses on off-balance-sheet credit exposures,'' effective March 31, 2019. As revised, the reporting form and instructions would state that HCs that have adopted ASU 2016–13 should report in item 3 the allowance for credit losses on those off-balance sheet credit exposures that are not unconditionally cancellable.

Schedule HC–K

Effective March 31, 2019, the Board revised the instructions to Schedule HC–K to clarify that, for institutions that have adopted ASU 2016–13, allowances for credit losses should not be deducted from the related amortized cost amounts when calculating the quarterly averages for all debt securities.

Schedule HC–N

To address the elimination of PCI assets by ASU 2016–13, the Board will remove Schedule HC–N, Memorandum items 9.a and 9.b, in which institutions report the outstanding balance and balance sheet amount, respectively, of past due and nonaccrual PCI loans effective December 31, 2022. The Board determined that these items were not needed for PCD loans under ASU 2016–13 given that the ASU eliminates the separate credit impairment model for PCI loans and applies CECL to PCD loans and all other loans held for investment measured at amortized cost. From March 31, 2019, through September 30, 2022, the reporting form and the instructions for Schedule HC–N, Memorandum items 9.a and 9.b, specify that these items should be completed only by HCs that have not yet adopted ASU 2016–13.

Schedule HC–R

In December 2018, the agencies approved a final rule amending their capital rule to address CECL.[8] The final rule included revised terminology for the allowance balance eligible for inclusion in regulatory capital.[9] The

[7] Amortized cost amounts to be reported by securities category in Schedule HC–B would exclude any accrued interest receivable on the securities in that category that is reported in ''Other assets'' on the balance sheet.

[8] *See https://www.federalreserve.gov/newsevents/pressreleases/bcreg20181221a.htm.*

[9] The agencies' final rule uses the term ''adjusted allowances for credit losses'' for regulatory capital purposes to distinguish such allowances from

Board has made a conforming terminology revision for the reporting of regulatory capital on Schedule HC–R.

In connection with the CECL Rule, the Board is adopting a number of revisions to Schedule HC–R to incorporate new terminology and the approved optional regulatory capital transition. Unless otherwise indicated, the revisions to Schedule HC–R discussed below would take effect March 31, 2019 (or the first quarter-end report date thereafter following the effective date on any final rule) and would apply to those institutions that have adopted CECL.

The CECL Rule introduces newly-defined regulatory capital term, allowance for credit losses (ACL), which replaces the ALLL, as defined under the capital rules for HCs that adopt CECL. The CECL Rule also provides that credit loss allowances for PCD assets held by these HCs should be netted when determining the carrying value, as defined in the CECL Rule, and, therefore, only the resulting net amount is be subject to risk-weighting. In addition, in the CECL Rule, the agencies have provided each institution the option to phase in the day-one regulatory capital effects that may result from the adoption of ASU 2016–13 over the three-year period beginning with the institution's CECL effective date.[10]

Allowances for Credit Losses Definition and Treatment of Purchase Credit Deteriorated Assets

In general, under the CECL Rule, HCs that have adopted CECL will be required to report ACL amounts instead of ALLL amounts that are currently reported. Effective December 31, 2022, the Board removed references to ALLL and replaced them with references to ACL on the reporting form for Schedule HC–R. From March 31, 2019 through September 30, 2022, the Board revised the instructions to Schedule HC–R to direct institutions that have adopted CECL to use ACL instead of ALLL in calculating regulatory capital. The revisions to the instructions would affect Schedule HC–R, Part I. Regulatory Capital Components and Ratios, item 30.a, ''Allowance for loan and lease losses includable in tier 2 capital,'' and Schedule HC–R, Part II. Risk-Weighted Assets, items 6, ''LESS: Allowance for loan and lease losses,'' 26, ''Risk-weighted assets for purposes of calculating the allowance for loan and lease losses 1.25 percent threshold,'' 28, ''Risk-weighted assets before deductions for excess allowance of loan and lease losses and allocated risk transfer risk reserve,'' and 29, ''LESS: Excess allowance for loan and lease losses.''

In addition, consistent with the CECL Rule, assets and off-balance sheet credit exposures for which any related credit loss allowances are eligible for inclusion in regulatory capital would be calculated and reported in Schedule HC–R Part II. Risk-Weighted Assets on a gross basis. Therefore, the Board revised the instructions for Schedule HC–R, Part II. Risk-Weighted Assets, items 2.a, ''Held-to-maturity securities''; 3.b., ''Securities purchased under agreements to resell''; 5.a., ''Residential mortgage exposures'' held for investment; 5.b, ''High volatility commercial real estate exposures'' held for investment; 5.c, Held-for-investment ''Exposures past 90 days or more or on nonaccrual''; 5.d, ''All other exposures'' held for investment; 8, ''All other assets,'' and 9.a, ''On-balance sheet securitization exposures: Held-to-maturity securities''; to explain that HCs that have adopted CECL should report and risk-weight their loans and leases held for investment, HTM securities, and other financial assets measured at amortized cost gross of their credit loss allowances, but net of the associated allowances on PCD assets.[11]

In addition, effective March 31, 2019, the Board added a new Memorandum item 5 to, Schedule HC–R, Part II that would collect data by asset category on the ''Amount of allowances for credit losses on purchased credit-deteriorated assets.'' The amount of such allowances for credit losses are reported separately for ''Loans and leases held for investment'' in Memorandum item 5.a, Held-to-maturity debt securities'' in Memorandum item 5.b, and ''Other financial assets measured at amortized cost'' in Memorandum item 5.c. The instructions for Schedule HC–R, Part II, Memorandum item 5, specify that these items should be completed only by HCs that have adopted ASU 2016–13.

The Board included footnotes for the affected items on the forms to highlight the revised treatment of those items for institutions that have adopted CECL.

CECL Transition Provision

Under the CECL Rule, an HC that experiences a reduction in retained earnings as of the effective date of CECL for the HC as a result of the HC's adoption of CECL may elect to phase in the regulatory capital impact of adopting CECL (electing institution). As described in the CECL Rule, an electing HC should indicate in its FR Y–9C report whether it has elected to use the CECL transition provision beginning in the quarter that it first reports its credit loss allowances as measured under CECL. To identify which HCs are electing HCs, the Board revised Schedule HC–R, Part I, Regulatory Capital Components and Ratios, by adding a new item 2.a in which a HC that has adopted CECL would report whether it has or does not have a CECL transition election in effect as of the quarter-end report date. Each institution will complete item 2.a beginning in the FR Y–9C for its first reporting under CECL and in each subsequent FR Y–9C report thereafter until item 2.a is removed from the report. Until an institution has adopted CECL, it will leave item 2.a blank. Effective March 31, 2025, the Board will remove item 2.a from Schedule HC–R, Part I, because the optional three-year phase-in period will have ended for all electing institutions by the end of the prior calendar year. If an individual electing institution's three-year phase-in period ends before item 2.a is removed (*e.g.,* its phase-in period ends December 31, 2022), the institution would change its response to item 2.a and report that it does not have a CECL transition election in effect as of the quarter-end report date.

During the CECL transition period, an electing HC would need to make adjustments to its retained earnings, temporary difference deferred tax assets, adjusted allowances for credit losses, and average total consolidated assets for regulatory capital purposes. An advanced approaches institution also would need to make an adjustment to its total leverage exposure. These adjustments are described in detail in the CECL Rule.

The Board revised the instructions to Schedule HC–R, Part I, Regulatory Capital Components and Ratios, items 2, ''Retained earnings,'' 30.a, ''Allowance for loan and lease losses includable in tier 2 capital,'' item 36, ''Average total consolidated assets,'' as well as Schedule HC–R, Part II, Risk-Weighted Assets, item 8, ''All other assets,'' consistent with the adjustments to these items for the applicable transitional

allowances for credit losses for accounting purposes.

[10] A non-PBE with a calendar year fiscal year that does not early adopt CECL would first report under CECL as of December 31, 2021, even though the non-PBE's CECL effective date is January 1, 2021. Thus, under the CECL Rule, such a non-PBE should use the phase-in percentage applicable to the first year of the three-year transition period only for the December 31, 2021, report date (*i.e.,* one quarter), not the four quarters that begin with the first report under CECL. The non-PBE may use the applicable phase-in percentages for all four quarters of the second and third years after the CECL effective date (*i.e.,* 2022 and 2023). The same principle would apply to the optional phase-in by a non-PBE with a non-calendar fiscal year.

[11] Amortized cost amounts to be reported by asset category in Schedule HC–R, Part II, would exclude any accrued interest receivable on assets in that category that is reported in ''Other assets'' on the Call Report balance sheet.

amounts as described in the CECL Rule for reporting by electing HCs to report the adjusted amounts. The Board has included footnotes on the reporting forms to highlight the changes to these items for electing institutions.

Schedule HC–V

The Board clarified in the instructions effective March 31, 2019, that all assets of consolidated variable interest entities should be reported net of applicable allowances for credit losses by HCs that have adopted ASU 2016–13. Net reporting on Schedule HC–V by such HCs is consistent with the changes to Schedules HC and HC–F. Similarly, effective March 31, 2019, the reporting form for Schedule HC–V specifies that HCs that have adopted ASU 2016–13 should report assets net of applicable allowances.

FR 2248, FR 2314/S, FR 2320, FR 2644, FR 2886b, FR Y–7N/NS, FR Y–8, FR Y–9LP, FR Y–9SP, and FR Y–11/S

The Board has made changes to the FR 2248, FR 2314/S, FR 2320, FR 2644, FR 2886b, FR Y–7N/NS, FR Y–8, FR Y–9LP, FR Y–9SP, and the FR Y–11/S report to mirror the FR Y–9C and Call report reporting revisions related to ASU 2016–13. The report forms and instructions were revised to clearly indicate that HTM securities, securities purchased under agreements to resell, and other assets should be reported net of applicable allowance for credit losses for those institutions that have adopted the standard. Additionally, the Board indicated on the report form and instructions that institutions that have adopted the ASU 2016–13 should report ''Allowance for credit losses on loans and leases'' and ''Provisions for credit losses for all applicable financial assets.''

To further address the broader scope of financial assets for which allowances will be calculated under ASU 2016–13, the Board revised the FR 2314/S, FR 2886b, FR Y–7N/NS, and the FR Y–11/S report to change the title caption from Changes in Allowance for Loan and Lease Losses'' to ''Changes in Allowances for Credit Losses'' and added three columns titled:

- Column A: Loans and leases;
- Column B: Held-to-maturity debt securities;
- Column C: Available-for-sale debt securities.

EGRRCPA Adopted FR Y–9C Report Revisions

On September 28, 2018, the Board, pursuant to its delegated authority,[12] temporarily approved certain revisions to the FR Y–9C relating to statutory amendments enacted by EGRRCPA.[13] Pursuant to the requirements of the Board's delegated authority, the Board is now extending these revisions for three years through the normal delegated clearance process.[14]

Section 214 of EGRRCPA, which was enacted on May 24, 2018, modified the Federal Deposit Insurance Act (FDI Act) to add a new section 51 governing the risk-based capital requirements for certain acquisition, development, or construction (ADC) loans. EGRRCPA provides that, effective upon enactment, the federal banking agencies may only require a depository institution to assign a heightened risk weight to an HVCRE exposure if such exposure is an ''HVCRE ADC Loan,'' as defined in this new law.

Section 202 of EGRRCPA amended section 29 of the FDI Act to exclude a capped amount of reciprocal deposits from treatment as brokered deposits for qualifying institutions, effective upon enactment. The instructions for the FR Y–9C and the Call Report, consistent with the law prior to the enactment of EGRRCPA, previously treated all reciprocal deposits as brokered deposits. In amending section 29 of the FDI Act to exclude a capped amount of reciprocal deposits from treatment as brokered deposits for qualifying institutions, section 202 defines ''reciprocal deposits'' to mean ''deposits received by an agent institution through a deposit placement network with the same maturity (if any) and in the same aggregate amount as covered deposits placed by the agent institution in other network member banks.'' The terms ''agent institution,'' ''deposit placement network,'' ''covered deposit,'' and ''network member bank,'' all of which are used in the definition of ''reciprocal deposit,'' also are defined in section 202.

In particular, an ''agent institution'' is an FDIC-insured depository institution that meets at least one of the following criteria:

- The institution is well-capitalized *and* has a composite condition of ''outstanding'' or ''good'' when most recently examined under section 10(d) of the FDI Act (12 U.S.C. 1820(d));
- The institution has obtained a waiver from the FDIC to accept, renew, or roll over brokered deposits pursuant to section 29(c) of the FDI Act (12 U.S.C. 1831f(c)); or
- The institution does not receive reciprocal deposits in an amount that is greater than a ''special cap'' (discussed below).

Under the ''general cap'' set forth in section 202, an agent institution may classify reciprocal deposits up to the lesser of the following amounts as non-brokered reciprocal deposits:

- $5 billion, or
- An amount equal to 20 percent of the agent institution's total liabilities.

Any amount of reciprocal deposits in excess of the ''general cap'' would be treated as, and should be reported as, brokered deposits.

A ''special cap'' applies if an agent institution is either *not* ''well-rated'' or *not* well-capitalized. In this situation, the institution may classify reciprocal deposits as non-brokered in an amount up to the lesser of the ''general cap'' or the average amount of reciprocal deposits held at quarter-end during the last four quarters the institution was well-capitalized *and* in ''outstanding'' or ''good'' condition.

To address the change in the treatment of HVCRE loans and certain reciprocal deposits under EGRRCPA, the agencies made a number of revisions to the September 2018 Call instructions. In order to avoid the regulatory burden associated with applying different definitions for HVCRE exposures and reciprocal deposits within a single organization, the Board temporarily revised the FR Y–9C instructions so that they that are consistent with those changes to the Call Report. To assist HCs in preparing the FR Y–9C for that report date, the revised FR Y–9C Supplemental Instructions include information regarding the reporting of HVCRE exposures and reciprocal deposits.

Specifically, the revisions to the FR Y–9C report provided that (i) respondents are permitted to report brokered deposits (in Schedule HC–E Memorandum items 1 and 2) in a manner consistent with the provisions of EGRRCPA,[15] but also may choose to continue to report brokered deposits in a manner consistent with the current instructions to the FR Y–9C and (ii) respondents are permitted to apply a heightened risk weight only to those HVCRE exposures (in Schedule HC–R, Part II, items 4.b, 5.b and 7) they believe meet the definition of HVCRE ADC Loan, but also may choose to continue to report and risk weight HVCRE exposures in a manner consistent with

[12] 5 CFR Pt. 1320, Appx. A(a)(3)(i)(A).

[13] See 83 FR 48990 (September 28, 2018).

[14] See 5 CFR Pt. 1320, Appx. A(a)(3)(i)(B).

[15] Although the EGRRCPA provision relating to reciprocal deposits and the risk-weighting of HVCRE applies only to depository institutions, the Board revised the FR Y–9C to permit HCs to report HVCRE in a manner consistent with their subsidiary depository institutions.

the previous instructions to the FR Y–9C.

Other Adopted Revisions

Revisions to the FR Y–9C

On the Notes to the Income Statement—Predecessor Financial Items, the Board added footnote to line item 6, Realized gains (losses) on HTM and AFS securities to instruct HCs to include realized and unrealized holding gains and losses in this item in order to implement the accounting change pertaining to equity securities under ASU No. 2016–01, ''Recognition and Measurement of Financial Assets and Financial Liabilities''). This change is consistent with the changes to the Call Report [16] and the FR Y–9C [17] report that became effective March 31, 2018. This change is effective March 31, 2019.

Revisions to the FR 2886b

Effective March 31, 2019, the Board adopted a number of revisions to the FR 2886b reporting requirements, most of which align with changes implemented on the Call Report. The changes include:

- Revisions to Schedule RC–R, Regulatory Capital, for banking Edge Corporations;
- Revisions to the eligibility criteria for reporting Schedule RC–D, Trading Assets and Liabilities;
- Revisions to address changes in accounting for equity investments not held for trading; and
- Revisions to the reporting of equity investments accounted for under the equity method of accounting.

Schedule RC–R, Regulatory Capital (for banking Edge Corporations)

Effective January 1, 1993, banking Edge Corporations became subject to capital adequacy guidelines under section 211.12(c) of Regulation K, International Banking Operations (12 CFR 211). According to Regulation K, banking Edge Corporations must maintain a minimum total capital to total risk-weighted assets ratio of at least 10 percent, of which at least 50 percent must consist of Tier 1 capital. In order to assess compliance with the capital requirements of Regulation K, banking Edge Corporations file FR 2886b Schedule RC–R, which currently consists of six items:

- Tier 1 capital allowable under the risk-based capital guidelines;
- Tier 2 capital allowable under the risk-based capital guidelines;
- Subordinated debt allowable as Tier 2;
- Total qualifying capital allowable under risk-based capital guidelines;
- Total risk-weighted assets and credit equivalent amounts of off-balance sheet items; and
- Credit equivalent amounts of off-balance-sheet items.

In October of 2013, the Board and the OCC published the revised capital rules in the **Federal Register** [18] (The FDIC published its own identical rules). The revised capital rules updated Regulation Q—Capital Adequacy of Bank Holding Companies, Savings and Loan Holding Companies, and State Member Banks (12 CFR 217). As a result of this update, the concept of risk-based capital rules in Regulation Q replaced the concept of capital adequacy guidelines. Since banking Edge corporations are subject to capital adequacy guidelines under Regulation K, and the concept of capital adequacy guidelines in Regulation K was replaced by the concept of risk-based capital rules in Regulation Q, banking Edge Corporations were now subject to risk-based capital rules under Regulation Q.

From August of 2013 to February of 2015, the Board, in conjunction with the OCC and the FDIC, published initial and final notices in the **Federal Register** to revise Call Report Schedule RC–R, Regulatory Capital, to align with the revised capital rules under Regulation Q.[19] As a result, Call Report Schedule RC–R, Part I, Regulatory Capital Components and Ratios, and Part II, Risk-Weighted Assets, were revised as of March 2014 and March 2015, respectively. The FR 2886b Schedule RC–R was not updated at this time to reflect the revised capital rules.

The Board removed all six existing items on FR 2886b Schedule RC–R, and replaced them with four items that correspond to the risk-based capital rules under Regulation Q. The revisions are similar to the revisions made on Call Report Schedule RC–R, albeit concerning fewer items. The Board believes these four items sufficiently assess risk-based capital adequacy for banking Edge Corporations, and better align with the risk-based capital rules under Regulation Q. Specifically, the Board added the following items to FR 2886b Schedule RC–R:

- Tier 1 Capital allowable under Regulation Q;
- Tier 2 Capital allowable under Regulation Q;
- Total Capital allowable under Regulation Q; and
- Total risk-weighted assets.

Schedule RC–D, Trading Assets and Liabilities

The Board changed the reporting threshold for filing Schedule RC–D to Edges with total trading assets of $10 million or more in any of the four preceding calendar quarters, from the current threshold of $2 million. The Board no longer needs the information reported in this schedule from Edges with a lesser amount of trading assets.

Changes in accounting for equity investments not held for trading

In January 2016, the FASB issued ASU No. 2016–01, ''Recognition and Measurement of Financial Assets and Financial Liabilities.'' The Board revised the FR 2886b report form and instructions to account for the changes to U.S. GAAP set forth in ASU 2016–01 that are consistent with the changes made to the Call Report.[20] These revised reporting requirements are effective for different sets of respondents as those respondents become subject to the ASU. Institutions that are public business entities, as defined in U.S. GAAP, are subject to ASU 2016–01 for fiscal years beginning after December 15, 2017, including interim periods within those fiscal years. ASU 2016–01is effective for fiscal years beginning after December 15, 2018, and interim periods within fiscal years beginning after December 15, 2019. The period over which institutions will be implementing this ASU ranges from the first quarter of 2019 through the fourth quarter of 2020. December 31, 2020, will be the first quarter-end FR 2886b report date as of which all institutions would be required to prepare their FR 2886b in accordance with ASU 2016–01 and the revised reporting requirements.

The changes to the accounting for equity investments under ASU 2016–01 will affect several existing data items in the FR 2886b. One outcome of the change in accounting for equity investments under ASU 2016–01 is the elimination of the concept of AFS equity securities, which are measured at fair value on the balance sheet with changes in fair value recognized through other comprehensive income. At present, the historical cost and fair value of AFS equity securities, *i.e.,* investments in mutual funds and other equity securities with readily determinable fair values that are not held for trading, are reported in FR 2886b Schedule RC–B (Securities), item 3, columns C and D, respectively. The total fair value of AFS securities, which

[16] See 83 FR 939 (February 7, 2018).

[17] See 83 FR 12395 (March 21, 2018).

[18] See 78 FR 62018 (October 11, 2013).

[19] See 78 FR 48934 (August 12, 2013), 79 FR 2527 (January 14, 2014), 79 FR 35634 (June 23, 2014), and 80 FR 5618 (February 2, 2015).

[20] See 83 FR 939 (January 8, 2018).

includes both debt and equity securities, is then carried forward to the FR 2886b balance sheet and reported in Schedule RC, item 2.

At present, the accumulated balance of the unrealized gains (losses) on AFS equity securities, net of applicable income taxes, that have been recognized through other comprehensive income is included in AOCI, which is reported in the equity capital section of the FR 2886b balance sheet in Schedule RC, item 24. With the elimination of AFS equity securities on the effective date of ASU 2016–01, the net unrealized gains (losses) on these securities that had been included in AOCI will be reclassified (transferred) from AOCI into the retained earnings component of equity capital, which is reported on the FR 2886b balance sheet in Schedule RC, item 23. After the effective date, changes in the fair value of (*i.e.,* the unrealized gains and losses on) an institution's equity securities that would have been classified as AFS had the previously applicable accounting standards remained in effect will be recognized through net income rather than other comprehensive income.

The effect of the elimination of AFS equity securities as a distinct asset category upon institutions' implementation of ASU 2016–01 carries over to the agencies' regulatory capital rules. Under these rules, institutions that are eligible to and have elected to make the AOCI opt-out election deduct net unrealized losses on AFS equity securities from common equity tier 1 capital and include 45 percent of pretax net unrealized gains on AFS equity securities in tier 2 capital. When ASU 2016–01 takes effect and the classification of equity securities as AFS is eliminated for accounting and reporting purposes under U.S. GAAP, the concept of unrealized gains and losses on AFS equity securities will likewise cease to exist.

Another outcome of the change in accounting for equity investments under ASU 2016–01 is that equity securities and other equity investments without readily determinable fair values that are within the scope of ASU 2016–01 and are not held for trading must be measured at fair value through net income, rather than at cost (less impairment, if any), unless the measurement election described above is applied to individual equity investments. In general, institutions currently report their holdings of such equity securities without readily determinable fair values as a category of other assets in FR 2886b Schedule RC, item 8 (item 8 is the total amount of an institution's other assets).

At present, AFS equity securities and equity investments without readily determinable fair values are included in the quarterly averages reported in Schedule RC–K. Institutions report the quarterly average of its total securities in item 7 of this schedule and this average reflects AFS equity securities at fair value and equity investments without readily determinable fair values at historical cost (item 7 is total assets; there is no breakout for securities on Schedule RC–K on the FR 2886b).

The Board has considered the changes to the accounting for equity investments under ASU 2016–01 and the effect of these changes on the manner in which data on equity securities and other equity investments are currently reported in the FR 2886b, which has been described above. Accordingly, the revisions to the FR 2886b report form and instructions to address the equity securities accounting changes are as follows:

Schedule RI

To provide transparency to the effect of unrealized gains and losses on equity securities not held for trading on an institution's net income during the year-to-date reporting period in Schedule RI, Income Statement, and to clearly distinguish these gains and losses from the rest of an institution's income (loss) from its continuing operations, Schedule RI, item 8, was revised effective March 31, 2019, by creating new items 8.a, ''Income (loss) before unrealized holding gains (losses) on equity securities not held for trading, applicable income taxes, and discontinued operations,'' and 8.b, ''Unrealized holding gains (losses) on equity securities not held for trading.'' In addition to unrealized holding gains (losses) during the year-to-date reporting period on such equity securities with readily determinable fair values, institutions will also report in new item 8.b the year-to-date changes in the carrying amounts of equity investments without readily determinable fair values not held for trading (*i.e.,* unrealized holding gains (losses) for those measured at fair value through earnings; impairment, if any, plus or minus changes resulting from observable price changes for those equity investments for which this measurement election is made). Existing Schedule RI, item 8, ''Income (loss) before applicable income taxes and discontinued operations,'' has been renumbered as item 8.c, and is equal to the sum of items 8.a and 8.b. From March 31, 2019, through September 30, 2020, the instructions for item 8.b and the reporting form for Schedule RI include guidance stating that item 8.b is to be completed only by institutions that have adopted ASU 2016–01. Institutions that have not adopted ASU 2016–01 would leave item 8.b blank when completing Schedule RI. Finally, from March 31, 2019, through September 30, 2020, the instructions for Schedule RI, item 6, ''Realized gains (losses) on securities not held in trading accounts,'' and the reporting form for Schedule RI include guidance stating that, for institutions that have adopted ASU 2016–01, item 6 includes realized gains (losses) only on AFS debt securities. Effective December 31, 2020, the caption for item 6 would be revised to ''Realized gains (losses) on available-for-sale debt securities.''

Schedule RC

In Schedule RC, Balance Sheet, item 2, ''Securities,'' has been split into three items: Item 2.a: ''Held-to-maturity securities, net of allowance for credit losses,'' item 2.b: ''Available-for-sale securities not held for trading,'' and 2.c: ''Equity securities with readily determinable fair values not held for trading,'' effective March 31, 2019. From March 31, 2019, through September 30, 2020, the instructions for item 2.c and the reporting form for Schedule RC include guidance stating that item 2.c is to be completed only by institutions that have adopted ASU 2016–01. Institutions that have not adopted ASU 2016–01 would leave item 2.c blank. During this period, the instructions for items 2.a and 2.b explain that institutions that have adopted ASU 2016–01 should include only debt securities in these items. Effective December 30, 2020, the caption for item 2.a will be revised to ''Held-to-maturity debt securities, net of allowance for credit losses,'' and the caption for item 2.b will be revised to ''Available-for-sale debt securities not held for trading.'' All institutions would report their holdings of equity securities with readily determinable fair values not held for trading in item 2.c.

In Schedule RC, item 8, Other Assets, the instructions were revised to add language stating institutions that have adopted ASU 2016–01 should report ''equity investments without readily determinable fair values'' at fair value, effective March 31, 2019. Institutions that have not adopted ASU 2016–01 will continue to report ''equity securities that do not have readily determinable fair values'' at historical cost. The types of equity securities and other equity investments currently reported in item 8 continue to be reported in this item. However, after the effective date of ASU 2016–01, the securities the institution reports in item

8 is measured in accordance with the ASU.

Schedule RC–B

In Schedule RC–B, item 3, ''Equity interest in nonrelated organizations,'' will be removed effective December 30, 2020. From March 31, 2019, through September 30, 2020, the instructions for item 3 and the reporting form for Schedule RC–B include guidance stating that item 3 is to be completed only by institutions that have not adopted ASU 2016–01. Institutions that have adopted ASU 2016–01 will leave item 3 blank.

Investments Accounted for Under the Equity Method of Accounting

The instructions for Schedule RC–B, item 3, ''Equity interest in nonrelated organizations,'' currently state to include investments that represent 20 percent to 50 percent of the voting shares of an organization accounted for under the equity method of accounting, and these investments are reported as either held-to-maturity or available-for-sale. Upon review, it was determined this treatment is not in compliance with U.S. GAAP, as investments accounted for under the equity method of accounting should not be classified as either held-to-maturity or available-for-sale. Guidance on securities accounted for under the equity method is provided in ASC Subtopic 323–10, Investments—Equity Method and Joint Ventures—Overall. To become U.S. GAAP compliant and to align with the reporting on the Call Report, the Board revised the instructions to indicate investments that represent 20 percent to 50 percent of the voting shares of an organization accounted for under the equity method of accounting should no longer be included in Schedule RC–B, item 3, but rather included in Schedule RC, item 8, ''Other assets.''

In addition, Schedule RC–B, item 3, columns A and B, Amortized Cost and Fair Value of Held-to-maturity equity interest in nonrelated organizations, respectively, would be discontinued effective March 31, 2019, as these items are no longer needed by the Board. Columns C and D, Amortized Cost and Fair value of Available-for-sale securities, would remain on the form and continue to be collected until December 31, 2020, when all institutions must comply with ASU 2016–01 (see description of revisions due to ASU 2016–01 for more information).

Legal authorization and confidentiality (FR Y–9 family of reports): The FR Y–9 family of reports is authorized by section 5(c) of the Bank Holding Company Act (BHC Act) (12 U.S.C. 1844(c)), section 10 of Home Owners' Loan Act (12 U.S.C. 1467a(b)) and section 618 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) (12 U.S.C. 1850a(c)(1)), and section 165 of the Dodd-Frank Act (12 U.S.C. 5365). These reports are mandatory.

With respect to the FR Y–9LP, FR Y–9SP, FR Y–9ES, FR Y–9CS, as well as most items on the FR Y–9C, the information collected would generally not be accorded confidential treatment. If confidential treatment is requested by a respondent, the Board will review the request to determine if confidential treatment is appropriate.

With respect to the FR Y–9C, Schedule HI's item 7(g) ''FDIC deposit insurance assessments,'' Schedule HC–P's item 7(a) ''Representation and warranty reserves for 1–4 family residential mortgage loans sold to U.S. government agencies and government sponsored agencies,'' and Schedule HC–P's item 7(b) ''Representation and warranty reserves for 1–4 family residential mortgage loans sold to other parties'' are considered confidential. Such treatment is appropriate because the data is not publicly available and could cause substantial harm to the competitive position of the respondent. The public release of this confidential data may impair the Board's future ability to collect similarly confidential data. Thus, this information may be kept confidential under exemptions (b)(4) of the Freedom of Information Act (FOIA), which exempts from disclosure ''trade secrets and commercial or financial information obtained from a person and privileged or confidential'' (5 U.S.C. 552(b)(4)), and (b)(8) of FOIA, which exempts from disclosure information related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions (5 U.S.C. 552(b)(8)). If confidential treatment is requested by a respondent for other items in the FR Y–9C, the Board will review the request to determine if confidential treatment is appropriate.

Legal authorization and confidentiality (FR Y–7N family of reports). With respect to FBOs and their subsidiary IHCs, section 5(c) of the BHC Act, in conjunction with section 8 of the International Banking Act (12 U.S.C. 3106), authorizes the board to require FBOs and any subsidiary thereof to file the FR Y–7N reports, and the FR Y–7Q.

Information collected in these reports generally is not considered confidential. However, because the information is collected as part of the Board's supervisory process, certain information may be afforded confidential treatment pursuant to exemption 8 of FOIA (5 U.S.C. 552(b)(8)). Individual respondents may request that certain data be afforded confidential treatment pursuant to exemption 4 of FOIA if the data has not previously been publically disclosed and the release of the data would likely cause substantial harm to the competitive position of the respondent (5 U.S.C. 552(b)(4)). Additionally, individual respondents may request that personally identifiable information be afforded confidential treatment pursuant to exemption 6 of FOIA if the release of the information would constitute a clearly unwarranted invasion of personal privacy (5 U.S.C. 552(b)(6)). The applicability of FOIA exemptions 4 and 6 would be determined on a case-by-case basis.

Legal authorization and confidentiality (FR Y–8). The FR Y–8 is mandatory for respondents that control an insured depository institution that has engaged in covered transactions with an affiliate during the reporting period. Section 5(c) of the BHC Act authorizes the Board to require BHCs to file the FR Y–8 reporting form with the Board (12 U.S.C. 1844(c)). Section 10(b)(2) of the Home Owners' Loan Act authorizes the Board to require SLHCs to file the FR Y–8 reporting form with the Board (12 U.S.C. 1467a(b)(2)). The release of data collected on this form includes financial information that is not normally disclosed by respondents, the release of which would likely cause substantial harm to the competitive position of the respondent if made publicly available. The data collected on this form, therefore, would be kept confidential under exemption 4 of FOIA which protects from disclosure trade secrets and commercial or financial information (5 U.S.C. 552(b)(4)).

Legal authorization and confidentiality (FR Y–11 family of reports). The Board has the authority to require BHCs and any subsidiary thereof, SLHCs and any subsidiary thereof, and SHCs and any affiliate thereof to file the FR Y–11 pursuant to, respectively, section 5(c) of the BHC Act (12 U.S.C. 1844(c)), section 10(b) of the Homeowners' Loan Act (12 U.S.C. 1467a(b)), and section 618 of the Dodd-Frank Act (12 U.S.C. 1850a). With respect to FBOs and their subsidiary IHCs, section 5(c) of the BHC Act, in conjunction with section 8 of the International Banking Act (12 U.S.C. 3106), authorizes the board to require FBOs and any subsidiary thereof to file the FR Y–11 reports. These reports are mandatory.

Information collected in these reports generally is not considered confidential. However, because the information is collected as part of the Board's supervisory process, certain information may be afforded confidential treatment pursuant to exemption 8 of FOIA (5 U.S.C. 552(b)(8)). Individual respondents may request that certain data be afforded confidential treatment pursuant to exemption 4 of FOIA if the data has not previously been publically disclosed and the release of the data would likely cause substantial harm to the competitive position of the respondent (5 U.S.C. 552(b)(4)). Additionally, individual respondents may request that personally identifiable information be afforded confidential treatment pursuant to exemption 6 of FOIA if the release of the information would constitute a clearly unwarranted invasion of personal privacy (5 U.S.C. 552(b)(6)). The applicability of FOIA exemptions 4 and 6 would be determined on a case-by-case basis.

Legal authorization and confidentiality (FR 2248). The Board has determined that the FR 2248 is authorized by law pursuant to section 2A of the Federal Reserve Act (12 U.S.C. 225a). The obligation to respond is voluntary. Individual respondent data are confidential under section (b)(4) of FOIA (5 U.S.C. 552).

Legal authorization and confidentiality (FR 2314 family of reports). The Board has the authority to require BHCs and any subsidiary thereof, SLHCs and any subsidiary thereof, and SHCs and any affiliate thereof to file the FR 2314 pursuant to, respectively, section 5(c) of the BHC Act (12 U.S.C. 1844(c)), section 10(b) of the Homeowners' Loan Act (12 U.S.C. 1467a(b)), and section 618 of the Dodd-Frank Act (12 U.S.C. 1850a). The Board has the authority to require SMBs, agreement corporations, and Edge corporations to file the FR 2314 pursuant to, respectively, sections 9(6), 25(7), and 25A(17) of the Federal Reserve Act (12 U.S.C. 324, 602, and 625). With respect to FBOs and their subsidiary IHCs, section 5(c) of the BHC Act, in conjunction with section 8 of the International Banking Act (12 U.S.C. 3106), authorizes the board to require FBOs and any subsidiary thereof to file the FR 2314 reports. These reports are mandatory.

Information collected in these reports generally is not considered confidential. However, because the information is collected as part of the Board's supervisory process, certain information may be afforded confidential treatment pursuant to exemption 8 of FOIA (5 U.S.C. 552(b)(8)). Individual respondents may request that certain data be afforded confidential treatment pursuant to exemption 4 of FOIA if the data has not previously been publically disclosed and the release of the data would likely cause substantial harm to the competitive position of the respondent (5 U.S.C. 552(b)(4)). Additionally, individual respondents may request that personally identifiable information be afforded confidential treatment pursuant to exemption 6 of FOIA if the release of the information would constitute a clearly unwarranted invasion of personal privacy (5 U.S.C. 552(b)(6)). The applicability of FOIA exemptions 4 and 6 would be determined on a case-by-case basis.

Legal authorization and confidentiality (FR 2320). The Board has the authority to require SLHCs to file the FR 2320 pursuant to the Home Owners' Loan Act (12 U.S.C. 1467a(b)(2)). The FR 2320 is mandatory for exempt SLHCs. In some cases, lower-tier SLHCs may voluntarily file the FR 2320. In other cases lower-tier SLHCs may be required to file (in addition to the top-tier SLHC) for safety and soundness purposes at the discretion of the appropriate Federal Reserve Bank.

The Board also has determined that data items C572, C573, and C574 (line items 24, 25, and 26) may be protected from disclosure under exemption 4 of FOIA. Commercial or financial information may be protected from disclosure under exemption 4 if disclosure of such information is likely to cause substantial competitive harm to the provider of the information (5 U.S.C. 552(b)(4)). The data items listed above pertain to new or changed pledges, or capital stock of any subsidiary savings association that secures short-term or long-term debt or other borrowings of the SLHC; changes to any class of securities of the SLHC or any of its subsidiaries that would negatively impact investors; and defaults of the SLHC or any of its subsidiaries during the quarter. Disclosure of this type of information is likely to cause substantial competitive harm to the SLHC providing the information and thus this information may be protected from disclosure under FOIA exemption 4.

With regard to the remaining data items on the FR 2320, the Board has determined that institutions may request confidential treatment for any FR 2320 data item or for all FR 2320 data items, and that confidential treatment will be reviewed on a case-by-case basis.

Legal authorization and confidentiality (FR 2644). The FR 2644 is authorized by section 2A and 11(a)(2) of the Federal Reserve Act (12 U.S.C. 225(a) and 248(a)(2)) and by section 7(c)(2) of the International Banking Act (12 U.S.C. 3105(c)(2)) and is voluntary. Individual respondent data are regarded as confidential under FOIA (5 U.S.C. 552(b)(4)).

Legal authorization and confidentiality (FR 2886b). Sections 25 and 25A of the Federal Reserve Act authorize the Board to collect the FR 2886b (12 U.S.C. 602, 625). The FR 2886b is mandatory. The information collected on this report is generally not considered confidential. However, information provided on Schedule RC–M (with the exception for item 3) and on Schedule RC–V, both of which pertain to claims on and liabilities to related organizations, may be exempt from disclosure pursuant to exemption (b)(4) of FOIA (5 U.S.C. 552(b)(4)). The information provided in the Patriot Act Contact Information section of the reporting form may be exempt from disclosure pursuant to exemption (b)(7)(C) of FOIA (5 U.S.C. 552(b)(7)(C)).

Current Actions: On December 12, 2018, the Board published a notice in the **Federal Register** (83 FR 63870) requesting public comment for 60 days on the extension, with revision, of the FR Y–9C, FR Y–9LP, FR Y–9SP, FR Y–9ES, FR Y–9CS, FR Y–7N, FR Y–7NS, FR Y–7Q, FR Y–8, FR Y–11, FR Y–11S, FR 2248, FR 2314, FR 2314S, FR 2320, FR 2644, and FR 2886b. The comment period for this notice expired on February 11, 2019. The Board did not receive any comments. The revisions will be implemented as proposed.

Board of Governors of the Federal Reserve System, March 22, 2019.

Michele Taylor Fennell,

Assistant Secretary of the Board.

Appendix A

EFFECTIVE DATES FOR ASU 2016–13

	U.S. GAAP effective date	Regulatory report effective date *
PBEs That Are SEC Filers	Fiscal years beginning after 12/15/2019, including interim periods within those fiscal years.	03/31/2020.

EFFECTIVE DATES FOR ASU 2016–13—Continued

	U.S. GAAP effective date	Regulatory report effective date *
Other PBEs (Non-SEC Filers)	Fiscal years beginning after 12/15/2020, including interim periods within those fiscal years.	03/31/2021.
Non-PBEs	Fiscal years beginning after 12/15/2020, and interim periods for fiscal years beginning after 12/15/2021[21].	12/31/2021.[22]
Early Application	Early application permitted for fiscal years beginning after 12/15/2018, including interim periods within those fiscal years.	First calendar quarter-end after effective date of early application of the ASU.

** For institutions with calendar fiscal year-ends and reports with quarterly report dates.*

For additional information on key elements of the new accounting standard and initial supervisory views with respect to measurement methods, use of vendors, portfolio segmentation, data needs, qualitative adjustments, and allowance processes, refer to the agencies' Joint Statement on the New Accounting Standard on Financial Instruments—Credit Losses issued on June 17, 2016, and Frequently Asked Questions on the New Accounting Standard on Financial Instruments—Credit Losses (CECL FAQs), which were last updated on September 6, 2017.[23]

For institutions that are PBEs and also are SEC filers, as both terms are defined in U.S. GAAP, the new credit losses standard is effective for fiscal years beginning after December 15, 2019, including interim periods within those fiscal years. Thus, for an SEC filer that has a calendar year fiscal year, the standard is effective January 1, 2020, and institutions must first apply the new credit losses standard in its FR 2314, FR 2320, FR 2886b, FR Y–7N, FR Y–8, FR Y–9C, FR Y–9LP and the FR Y–11 report for the quarter ended March 31, 2020. For the FR 2248, FR 2644 and the FR Y–9SP reporters must first apply the new credit losses standard January 31, 2020, January 1, 2020 and June 30, 2020, respectively.

For a PBE that is not an SEC filer, the credit losses standard is effective for fiscal years beginning after December 15, 2020, including interim periods within those fiscal years. Thus, for a PBE that is not an SEC filer and has a calendar year fiscal year, the standard is effective January 1, 2021, and the institution must first apply the new credit losses standard in its FR 2314, FR 2320, FR 2886b, FR Y–7N, FR Y–8, FR Y–9C, FR Y–9LP and the FR Y–11 for the quarter ended March 31, 2021. For the FR 2248, FR 2644 and the FR Y–9SP reporters must first apply the new credit losses standard, January 31, 2021, January 6, 2021, and June 30, 2021, respectively.

For an institution that is not a PBE, the credit losses standard is effective for fiscal years beginning after December 15, 2020, and for interim period financial statements for fiscal years beginning after December 15, 2021.[24] Thus, an institution with a calendar year fiscal year that is not a PBE must first apply the new credit losses standard in its FR 2248, FR 2314, FR 2320, FR 2886b, FR Y–7N, FR Y–8, FR Y–9C, FR Y–9LP, FR Y–9SP, and FR Y–11 for December 31, 2021, if the institution is required to file such form.[25] The FR 2644 reporters must first apply the new credit losses standard January 5, 2022. However, where applicable, institutions would include the CECL provision for expected credit losses for the entire year ended December 31, 2021, in the income statement in its report for year-end 2021. The institution would also recognize in its year-end 2021 report a cumulative-effect adjustment to the beginning balance of retained earnings as of January 1, 2021, resulting from the adoption of the new standard as of the beginning of the 2021 fiscal year.

For regulatory reporting purposes, early application of the new credit losses standard will be permitted for all institutions for fiscal years beginning after December 15, 2018, including interim periods within those fiscal years.

Appendix B—U.S. GAAP Changes as a Result of CECL

Introduction of a New Credit Loss Methodology

The new accounting standard developed by the FASB has been designed to replace the existing incurred loss methodology in U.S. GAAP. Under CECL, the allowance for credit losses is an estimate of the expected credit losses on financial assets measured at amortized cost, which is measured using relevant information about past events, including historical credit loss experience on financial assets with similar risk characteristics, current conditions, and reasonable and supportable forecasts that affect the collectability of the remaining cash flows over the contractual term of the financial assets. In concept, an allowance will be created upon the origination or acquisition of a financial asset measured at amortized cost. At subsequent reporting dates, the allowance will be reassessed for a level that is appropriate as determined in accordance with CECL. The allowance for credit losses under CECL is a valuation account, measured as the difference between the financial assets' amortized cost basis and the amount expected to be collected on the financial assets, *i.e.,* lifetime expected credit losses.

Reduction in the Number of Credit Impairment Models

Impairment measurement under existing U.S. GAAP has often been considered complex because it encompasses five credit impairment models for different financial assets.[26] In contrast, CECL introduces a single measurement objective to be applied to all financial assets carried at amortized cost, including loans held-for-investment (HFI) and held-to-maturity (HTM) debt securities. That said, CECL does not specify a single method for measuring expected credit losses; rather, it allows any reasonable approach, as long as the estimate of expected credit losses achieves the objective of the FASB's new accounting standard. Under the existing incurred loss methodology, institutions use various methods, including historical loss rate methods, roll-rate methods, and discounted cash flow methods, to estimate credit losses. CECL allows the continued use of these methods; however, certain changes to these methods will need to be made in order to estimate lifetime expected credit losses.

Purchased Credit-Deteriorated (PCD) Financial Assets

CECL introduces the concept of PCD financial assets, which replaces purchased credit-impaired (PCI) assets under existing U.S. GAAP. The differences in the PCD criteria compared to the existing PCI criteria will result in more purchased loans HFI, HTM debt securities, and available-for-sale (AFS) debt securities being accounted for as PCD financial assets. In contrast to the existing accounting for PCI assets, the new standard requires the estimate of expected

[21] See Footnote 23.

[22] See Footnote 24.

[23] The CECL FAQs and a related link to the joint statement can be found on the Board's website: *https://www.federalreserve.gov/supervisionreg/srletters/sr1708a1.pdf;.*

[24] On August 20, 2018, FASB issued a proposed ASU that would amend the transition and effective date provisions in ASU 2016–13 for entities that are not PBEs (non-PBEs) so that the credit losses standard would be effective for non-PBEs for fiscal years beginning after December 15, 2021, including interim periods within those fiscal years.

[25] If the FASB issues a final Accounting Standards Update amending the transition and effective date provisions in ASU 2016–13 as described in footnote 23, a non-PBE with a calendar year fiscal year would first apply the new credit losses standard in its reports for March 31, 2022, if an institution is required to file these report forms.

[26] Current U.S. GAAP includes five different credit impairment models for instruments within the scope of CECL: ASC Subtopic 310–10, Receivables-Overall; ASC Subtopic 450–20, Contingencies-Loss Contingencies; ASC Subtopic 310–30, Receivables-Loans and Debt Securities Acquired with Deteriorated Credit Quality; ASC Subtopic 320–10, Investments—Debt and Equity Securities—Overall; and ASC Subtopic 325–40, Investments-Other-Beneficial Interests in Securitized Financial Assets.

credit losses embedded in the purchase price of PCD assets to be estimated and separately recognized as an allowance as of the date of acquisition. This is accomplished by grossing up the purchase price by the amount of expected credit losses at acquisition, rather than being reported as a credit loss expense. As a result, as of acquisition date, the amortized cost basis of a PCD financial asset is equal to the principal balance of the asset less the non-credit discount, rather than equal to the purchase price as is currently recorded for PCI loans.

AFS Debt Securities

The new accounting standard also modifies the existing accounting practices for impairment on AFS debt securities. Under this new standard, institutions will recognize a credit loss on an AFS debt security through an allowance for credit losses, rather than a direct write-down as is required by current U.S. GAAP. The recognized credit loss is limited to the amount by which the amortized cost of the security exceeds fair value. A write-down of an AFS debt security's amortized cost basis to fair value, with any incremental impairment reported in earnings, would be required only if the fair value of an AFS debt security is less than its amortized cost basis and either (1) the institution intends to sell the debt security, or (2) it is more likely than not that the institution will be required to sell the security before recovery of its amortized cost basis.

Although the measurement of credit loss allowances is changing under CECL, the FASB's new accounting standard does not address when a financial asset should be placed in nonaccrual status. Therefore, institutions should continue to apply the agencies' nonaccrual policies that are currently in place. In addition, the FASB retained the existing write-off guidance in U.S. GAAP, which requires an institution to write off a financial asset in the period the asset is deemed uncollectible.

[FR Doc. 2019–05933 Filed 3–27–19; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Docket No. CDC–2019–0022; NIOSH–326]

National Firefighter Registry; Request for Information

AGENCY: Centers for Disease Control and Prevention, HHS.

ACTION: Request for information.

SUMMARY: The Centers for Disease Control and Prevention (CDC) in the Department of Health and Human Services (HHS) announces the opening of a docket to obtain information regarding the development and maintenance of a voluntary registry of U.S. firefighters. The purpose of the Registry will be to collect health and occupational information for the purpose of determining cancer incidence. CDC is seeking input on approaches to maximizing firefighter participation in the Registry and coordination of data collection.

DATES: Comments must be received by May 28, 2019.

ADDRESSES: Comments may be submitted electronically, through the Federal eRulemaking Portal: *http://www.regulations.gov,* or by sending a hard copy to the NIOSH Docket Office, Robert A. Taft Laboratories, MS–C34, 1090 Tusculum Avenue, Cincinnati, OH 45226. All written submissions received must include the agency name (Centers for Disease Control and Prevention, HHS) and docket number (CDC–2019–0022; NIOSH–326) for this action. All relevant comments, including any personal information provided, will be posted without change to *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Rachel Weiss, Program Analyst, 1090 Tusculum Avenue, MS: C–48, Cincinnati, OH 45226; telephone (855) 818–1629 (this is a toll-free number); email *NIOSHregs@cdc.gov.*

SUPPLEMENTARY INFORMATION: The Firefighter Cancer Registry Act of 2018 (42 U.S.C. 280e-5) requires that CDC develop and maintain a voluntary registry of firefighters (Registry) to improve the nationwide monitoring of cancer rates among firefighters and to make the resulting epidemiological information and analysis publicly available. In order to develop the Registry, CDC is soliciting public comments from any interested party on a strategy for inclusion of firefighters in the Registry and to coordinate data collection activities.

The National Firefighter Registry will be constructed primarily for the purpose of determining cancer incidence and trends among firefighters. Data submission will be voluntary. In order to develop an accurate picture of cancer incidence among the firefighting community, the Registry will be designed to collect information on volunteer, paid-on-call, and career firefighters, independent of cancer status or diagnosis. Such information may include basic demographic information, number of years and time period(s) as an active firefighter, number of fire incidents attended, details of any cancer diagnosis, additional risk factors such as smoking or drug use, and relevant medical history. This information will be collected periodically from Registry participants and other sources. CDC is further required to ensure that data and analyses in the Registry are available to the public, as appropriate, subject to relevant Federal and state privacy protections such as de-identification of personally identifiable information.

CDC is considering three different strategies to recruit participants into the Registry, as described below. Each approach has strengths and limitations, and it may be necessary for CDC to use a combination of all three strategies in order to reach reliable conclusions applicable to the general population of firefighters as well as specific subgroups. Each approach proposed below will require obtaining informed consent from every firefighter who agrees to participate in the Registry, prior to the collection of data. The informed consent document would describe the purpose of the Registry; how health, occupational, and contact information will be maintained, updated, and potentially used; the privacy protections afforded by applicable Federal laws and procedures to protect such data; and other relevant information.

Recruitment Strategy Options

1. Convenience Sampling—Open Enrollment

CDC would develop a secure web portal to allow current and former volunteer, paid-on-call, and career firefighters to provide information to the Registry, including demographic information, as well as relevant occupational and personal health history. CDC would consult with fire service stakeholders on methods to raise awareness and to notify their members about the open enrollment web portal.

An open enrollment design may limit the ability of researchers to make statistical inferences because those who enroll in this manner may be different from the general population of firefighters. Nevertheless, Registry data from these participants may be helpful to CDC researchers in generating hypotheses for future research studies. Further, this approach would provide the opportunity for any fire service members to participate in the Registry and for CDC researchers to have a quick and cost-effective means for cross-sectional analysis of characteristics relevant to firefighter health and safety.

2. Organizations-Level Probability Sampling—Recruit Participants Through Professional Associations

CDC would consult with firefighter organizations to identify current and former members who worked during a

specified time frame (*e.g.,* 2000–2018) for the purposes of direct solicitation. These organizations represent different groups of currently employed (and, in some cases, former) firefighters, including career and volunteer firefighters; sub-specialties of the fire service, such as arson investigators, instructors, wildland firefighters, and airport rescue firefighters; and specific demographic groups, such as minority and female firefighters, and volunteer firefighters. This strategy would allow CDC to contact members from these organizations for voluntary participation in the Registry.

A strength of this approach is that, because firefighter organizations reach a vast majority of the firefighter workforce, populations representative of specific subgroups of firefighters are more likely to be represented. However, recruiting participants using this method alone may be time-intensive and costly, and could result in a limited sample that is not representative of the entire population of firefighters.

3. Fire Department-Level Probability Sampling—Study Population From Select Fire Departments

CDC would obtain a list of fire departments from the U.S. Fire Administration's National Fire Department Registry and other sources to request identification of current and former firefighters who worked during a specified time frame (*e.g.,* 2000–2018). CDC would then match the rosters of current and former firefighters against the National Death Index (NDI) to determine vital status. Living individuals would be directly contacted (or directed to the web portal) for voluntary recruitment into the Registry. For those firefighters determined to be deceased, the cause of death would be included in the Registry database.

This recruitment method would facilitate reaching large numbers of firefighters by obtaining immediate access to fire department rosters of current and former employees. Depending on the participation rate, this method could yield a Registry population representative of the general population of firefighters and inclusive of specific subgroups of firefighters. However, this approach would require CDC to obtain approval from individual fire departments and coordination with their personnel systems, in addition to contacting members directly, which may be time-intensive and costly.

CDC Is Seeking Input From All Interested Stakeholders

In order to recruit firefighters to participate in the National Firefighter Registry, CDC seeks input and advice from all interested stakeholders in response to the following questions:

1. How should CDC define ''firefighter'' for the purpose of creating the Registry?

2. What are the strengths and weaknesses associated with CDC using a combination of all three of the recruitment and enrollment strategies described above?

3. If CDC were to focus on only one or two of the enrollment approaches described above, which one(s) should be used, and why?

4. Are there other recruitment and enrollment methods that CDC should consider? If so, please describe them.

5. What are some ways to maximize firefighter participation in the Registry?

6. Which under-represented or under-studied groups of firefighters should be included in the Registry? Are there unique data collection needs that should be considered to allow sufficient representation of minority, female, and volunteer firefighters? Are there any other unique characteristics of these under-represented or under-studied groups that should be considered or addressed in the Registry?

7. What are the preferred methods for communicating with firefighters in order to increase awareness of the Registry and to communicate research findings?

8. If CDC were to solicit participation from fire departments, what criteria should be used in selecting those departments?

9. What are some ways to maximize the participation of fire departments in efforts to recruit firefighters?

10. What are strategies that can be used to recruit volunteer fire department members?

11. What are strategies that can be used to solicit cooperation of fire departments for the purpose of recruiting women and minority firefighters?

12. Do volunteer fire departments retain employment records and fire incident records?

Dated: March 25, 2019.

Sandra Cashman,

Executive Secretary, Centers for Disease Control and Prevention.

[FR Doc. 2019–05971 Filed 3–27–19; 8:45 am]

BILLING CODE 4163–19–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS–3070G–I, CMS–10565]

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 29, 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 of a currently approved collection; *Title of Information Collection:* ICF/IID Survey Report Form and Supporting Regulations; *Use:* The information collected with forms 3070G–I is used to determine the level of compliance with Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICF/IID) CoPs necessary to participate in the Medicare/Medicaid program. Information needed to monitor the State's performance as well as the ICF/IID program in general, is available to CMS only through the use of information abstracted from the survey report form. The form serves as a coding worksheet designed to facilitate data entry and retrieval into the Automated Survey Processing Environment Suite (ASPEN) in the State and at the CMS regional offices. *Form Number:* CMS–3070G–I (OMB control number: 0938–0062); *Frequency:* Reporting—Yearly; *Affected Public:* Business or other for-profits and Not-for-profit institutions; *Number of Respondents:* 6,100; *Total Annual Responses:* 6,100; *Total Annual Hours:* 18,300. (For policy questions regarding this collection contact Melissa Rice at 410–786–3270.)

2. *Type of Information Collection Request:* Reinstatement with change of a previously approved collection; *Title of Information Collection:* Initial and Renewal Model of Care Submissions Off-cycle Submission of Summaries of Model of Care; *Use:* Section 3205(e) of the Affordable Care Act requires that all skilled nursing facilities (SNPs) be approved by NCQA. This approval is based on NCQA's evaluation of SNPs' MOC narratives using MOC scoring guidelines. The Bipartisan Budget Act (BBA) of 2018 Section 50311 modified the MOC requirements for C–SNPs in section 1859 (b)(6)(B)(iii) of the Act. Specifically, section (B)(iv) requires that beginning in 2020 and subsequent years, C–SNPs will submit MOCs annually for evaluation and approval.

SNPs are a specific type of Medicare Advantage coordinated care plan that provide targeted care to individuals with unique special need. SNPs are required to submit Models of Care (MOC) as a component of the Medicare Advantage application process through the Health Plan Management System (HPMS). NCQA and CMS will use information collected in the SNP Application HPMS module to review and approve MOC narratives in order for a Medicare Advantage Organization (MAO) to operate as a new SNP in the upcoming calendar year(s). This information is used by CMS as part of the Medicare Advantage SNP application process. NCQA and CMS will use information collected in the Renewal Submission section of the HPMS MOC module to review and approve the MOC narrative in order for the SNP to receive a new approval period and operate in the upcoming calendar year(s). NCQA and CMS will use information in the Off-Cycle Submission section of the HPMS MOC module to review changes made to an approved MOCs by SNPs. It is the responsibility of SNPs to notify CMS of significant changes to their MOC in HPMS. NCQA will conduct a review for CMS to determine if the changes made to a MOC are consistent with the overall approved MOC before SNPs may implement the changes. *Form Number:* CMS–10565 (OMB control number 0938–1296); *Frequency:* Occasionally; *Affected Public:* State, Local, and Tribal Governments; *Number of Respondents:* 323; *Total Annual Responses:* 323; *Total Annual Hours:* 1856. (For policy questions regarding this collection contact Donna B. Williamson at 410–786–4647.)

Dated: March 25, 2019.

William N. Parham, III,

Director, Paperwork Reduction Staff, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2019–05975 Filed 3–27–19; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS–10305]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, HHS.

ACTION: Notice.

SUMMARY: The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (the PRA), federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information (including each proposed extension or reinstatement of an existing collection of information) and to allow 60 days for public comment on the proposed action. Interested persons are invited to send comments regarding our burden estimates or any other aspect of this collection of information, including the necessity and utility of the proposed information collection for the proper performance of the agency's functions, the accuracy of the estimated burden, ways to enhance the quality, utility, and clarity of the information to be collected, and the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

DATES: Comments must be received by May 28, 2019.

ADDRESSES: When commenting, please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be submitted in any one of the following ways:

1. *Electronically.* You may send your comments electronically to *http://www.regulations.gov.* Follow the instructions for ''Comment or Submission'' or ''More Search Options'' to find the information collection document(s) that are accepting comments.

2. *By regular mail.* You may mail written comments to the following

address: CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development, Attention: Document Identifier/OMB Control Number ____, Room C4–26–05, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, you may make your request using one of following:

1. Access CMS' website address at website address at *https://www.cms.gov/Regulations-and-Guidance/Legislation/PaperworkReductionActof1995/PRA-Listing.html.*

2. Email your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov.*

3. Call the Reports Clearance Office at (410) 786–1326.

FOR FURTHER INFORMATION CONTACT: William N. Parham at (410) 786–4669.

SUPPLEMENTARY INFORMATION:

Contents

This notice sets out a summary of the use and burden associated with the following information collections. More detailed information can be found in each collection's supporting statement and associated materials (see **ADDRESSES**).

CMS–10305 Medicare Part C and Part D Data Validation (42 CFR 422.516g and 423.514g)

Under the PRA (44 U.S.C. 3501–3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term ''collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA requires federal agencies to publish a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice.

Information Collection

1. *Type of Information Collection Request:* Revision with change of a currently approved collection; *Title of Information Collection:* Medicare Part C and Part D Data Validation (42 CFR 422.516g and 423.514g); *Use:* The Centers for Medicare and Medicaid Services (CMS) established reporting requirements for Medicare Part C and Part D sponsoring organizations (Medicare Advantage Organizations [MAOs], Cost Plans, and Medicare Part D sponsors) under the authority described in 42 CFR 422.516(a) and 423.514(a), respectively. Under these reporting requirements, each sponsoring organization must submit Medicare Part C, Medicare Part D, or Medicare Part C and Part D data. In order for the reported data to be useful for monitoring and performance measurement, the data must be reliable, valid, complete, and comparable among sponsoring organizations. To maintain the independence of the validation process, sponsoring organizations do not use their own staff to conduct the data validation. Sponsoring organizations are responsible for hiring external, independent data validation contractors (DVCs) who meet a minimum set of qualifications and credentials, which CMS outlines in the ''Standards for Selecting Data Validation Contractors'' document. For the retrospective review in 2020, the DVCs will review data submitted by sponsoring organizations for CY2019. *Form Number:* CMS–10305 (OMB control number: 0938–1115); *Frequency:* Yearly; *Affected Public:* State, Local, or Tribal Governments; *Number of Respondents:* 553; *Total Annual Responses:* 553; *Total Annual Hours:* 15,332. (For policy questions regarding this collection contact Maria Sotirelis at 410–786–0552.)

Dated: March 25, 2019.

William N. Parham, III,

Director, Paperwork Reduction Staff, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2019–05978 Filed 3–27–19; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2019–N–1131]

Annual Public Meeting; Reagan-Udall Foundation for the Food and Drug Administration

AGENCY: Reagan-Udall Foundation, FDA, HHS.

ACTION: Notice of annual meeting.

SUMMARY: The Reagan-Udall Foundation (the Foundation) for the Food and Drug Administration (FDA), which was created by Title VI of the Food and Drug Administration Amendments Act of 2007, is announcing its annual public meeting. The Foundation will discuss its activities and how they support FDA.

DATES: The public meeting will be held on May 2, 2019, from 10 a.m. until 12 noon. Registration to attend the meeting must be received by April 30, 2019, at 5 p.m. Eastern Time. Requests for oral presentation must be received before April 30, 2019, at 5 p.m. Eastern Time. See the **SUPPLEMENTARY INFORMATION** section for registration date and information. The public is also invited to submit written comments by sending them via email to Kelly Catterton (see **FOR FURTHER INFORMATION CONTACT**) before April 30, 2019, at 5 p.m. Eastern Time.

ADDRESSES: The public meeting will be held at the PEW Charitable Trusts, 901 E St. NW, Washington, DC 20004.

FOR FURTHER INFORMATION CONTACT: Kelly Catterton, Executive Assistant to the Executive Director, Reagan-Udall Foundation for FDA, 202–849–2255, *kcatterton@reaganudall.org.*

SUPPLEMENTARY INFORMATION:

I. Background

The Reagan-Udall Foundation for the FDA is an independent 501(c)(3) not-for-profit, organization created by Congress to advance the mission of FDA to modernize medical, veterinary, food, food ingredient, and cosmetic product development; accelerate innovation, and enhance product safety. With the ultimate goal of improving public health, the Foundation provides a unique opportunity for different sectors (FDA, patient groups, academia, other government entities, and industry) to work together in a transparent way to create exciting new research and engagement projects to advance regulatory science.

The Foundation acts as a neutral third party to establish novel, scientific collaborations. Much like any other independently developed information, FDA evaluates the scientific information from these collaborations to determine how the Foundation projects can help the Agency to fulfill its mission.

Foundation projects currently include: Innovation in Medical Evidence Development and Surveillance, a public-private partnership that allows researchers to study drug safety concerns of interest to public health; an Expanded Access Navigator that offers instructional material and resources for physicians, patients, and their caregivers on how to access investigational drugs outside of clinical trials; and a new joint Foundation and FDA regulatory science fellowship program.

II. Topics for Discussion at the Public Meeting

FDA Center Directors will hold a panel discussion on pressing FDA initiatives suitable for Public-Private Partnerships. Panelists will include Drs. Janet Woodcock, Peter Marks, and Jeffrey Shuren. The panel moderator will be Michael McCaughan, Co-Founder of Prevision Policy. Find the meeting page at *http://reaganudall.org/2019-annual-public-meeting-0.*

III. Participating in the Public Meeting

Registration: To register for the public meeting, please visit the following website to register: *https://reaganudall.salsalabs.org/2019AnnualMeeting/index.html.* Persons interested in attending this public meeting must register online by April 30, 2019, at 5 p.m. Eastern Time.

If you need special accommodations due to a disability, please contact Kelly Catterton (see **FOR FURTHER INFORMATION CONTACT**) no later than April 30, 2019, at 5 p.m. Eastern Time.

Requests for Oral Presentations: Interested persons may present comments at the public meeting. Comments will be scheduled to begin approximately at 11:45 a.m. Time allotted for comments is limited to 3 minutes per speaker. Those desiring to make oral comments should notify Kelly Catterton (see **FOR FURTHER INFORMATION CONTACT**) by April 30, 2019, at 5 p.m. Eastern Time. Please include a brief statement of the general nature of the comments you wish to present along with your name, address, telephone number, and email address. The contact person will notify individuals regarding their request to speak by May 1, 2019.

Dated: March 22, 2019.

Lowell J. Schiller,

Acting Associate Commissioner for Policy.

[FR Doc. 2019–05944 Filed 3–27–19; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2019–N–0428]

Advisory Committee; Cellular, Tissue and Gene Therapies Advisory Committee, Renewal

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; renewal of advisory committee.

SUMMARY: The Food and Drug Administration (FDA) is announcing the renewal of the Cellular, Tissue and Gene Therapies Advisory Committee (Committee) by the Commissioner of Food and Drugs (the Commissioner). The Commissioner has determined that it is in the public interest to renew the Committee for an additional 2 years beyond the charter expiration date. The new charter will be in effect until October 28, 2020.

DATES: Authority for the Cellular, Tissue and Gene Therapies Advisory Committee will expire on October 28, 2018, unless the Commissioner formally determines that renewal is in the public interest.

FOR FURTHER INFORMATION CONTACT: Prabhakara Atreya, Division of Scientific Advisors and Consultants, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 6306, Silver Spring, MD 20993; 240–402–8006, email: *Prabhakara.atreya@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: Pursuant to 41 CFR 102–3.65 and approval by the Department of Health and Human Services pursuant to 45 CFR part 11 and by the General Services Administration, FDA is announcing the renewal of the Committee. The Committee is a discretionary Federal advisory committee established to provide advice to the Commissioner.

The Committee advises the Commissioner or designee in discharging responsibilities as they relate to helping to ensure safe and effective drugs for human use and, as required, any other product for which FDA has regulatory responsibility.

The Committee reviews and evaluates available data relating to the safety, effectiveness, and appropriate use of human cells, human tissues, gene transfer therapies, and xenotransplantation products which are intended for transplantation, implantation, infusion, and transfer in the prevention and treatment of a broad spectrum of human diseases and in the reconstruction, repair or replacement of tissues for various conditions. The Committee also considers the quality and relevance of FDA's research program which provides scientific support for the regulation of these products, and makes appropriate recommendations to the Commissioner.

The Committee shall consist of a core of thirteen voting members including the Chair. Members and the Chair are selected by the Commissioner or designee from among authorities knowledgeable in the fields of cellular therapies, tissue transplantation, gene transfer therapies, and xenotransplantation (biostatistics, bioethics, hematology/oncology, human tissues and transplantation, reproductive medicine, general medicine and various medical specialties including surgery and oncology, immunology, virology, molecular biology, cell biology, developmental biology, tumor biology, biochemistry, rDNA technology, nuclear medicine, gene therapy, infectious diseases, and cellular kinetics). Members will be invited to serve for overlapping terms of up to four years. Almost all non-Federal members of this Committee serve as Special Government Employees. The core of voting members may include one technically qualified member, selected by the Commissioner or designee, who is identified with consumer interests and is recommended by either a consortium of consumer-oriented organizations or other interested persons. In addition to the voting members, the Committee may include one non-voting member who is identified with industry interests.

Further information regarding the most recent charter and other information can be found at *https://www.fda.gov/AdvisoryCommittees/CommitteesMeetingMaterials/BloodVaccinesandOtherBiologics/CellularTissueandGeneTherapiesAdvisoryCommittee/default.htm* or by contacting the Designated Federal Officer (see **FOR FURTHER INFORMATION CONTACT**). In light of the fact that no change has been made to the Committee name or description of duties, no amendment will be made to 21 CFR 14.100.

This document is issued under the Federal Advisory Committee Act (5 U.S.C. app.). For general information related to FDA advisory committees, please visit us at *https://www.fda.gov/AdvisoryCommittees/default.htm.*

Dated: March 22, 2019.

Lowell J. Schiller,

Acting Associate Commissioner for Policy.

[FR Doc. 2019–05985 Filed 3–27–19; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2019–N–0444]

United States Food and Drug Administration and Health Canada Joint Regional Consultation on the International Council for Harmonisation of Technical Requirements for Pharmaceuticals for Human Use; Public Meeting; Request for Comments

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of public meeting; request for comments.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing a regional public meeting entitled ''U.S. Food and Drug Administration and Health Canada Joint Regional Consultation on the International Council for Harmonisation of Technical Requirements for Pharmaceuticals for Human Use (ICH).'' The purpose of the public meeting is to provide information and solicit public input on the current activities of the ICH, as well as the upcoming ICH Assembly Meeting and the Expert Working Group Meetings in Amsterdam, Netherlands, scheduled for June 2 through 6, 2019. The topics to be addressed at the public meeting are the current ICH guideline topics under development that will be discussed at the forthcoming ICH Assembly Meeting in Amsterdam.

DATES: The public meeting will be held on April 29, 2019, from 10 a.m. to 1 p.m. Submit either electronic or written comments on this public meeting by May 20, 2019. See the **SUPPLEMENTARY INFORMATION** section for registration date and information.

ADDRESSES: The public meeting will be held at FDA's White Oak Campus, 10903 New Hampshire Ave., Bldg. 31 Conference Center, the Great Room (Rm. 1503), Silver Spring, MD 20993–0002. The meeting will also be broadcast on the web, allowing participants to join in person or via the web. For those who will attend in person, the entrance for the public meeting participants (non-FDA employees) is through Building 1 where routine security check procedures will be performed. For parking and security information, please refer to *https://www.fda.gov/AboutFDA/WorkingatFDA/BuildingsandFacilities/WhiteOakCampusInformation/ucm241740.htm*. For those who register to attend the public meeting remotely via the webcast, a link to access the webcast will be emailed 1 week in advance of the meeting.

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 on 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–0444 for ''U.S. Food and Drug Administration and Health Canada Joint Regional Consultation on the International Council for Harmonisation of Technical Requirements for Pharmaceuticals for Human Use; Public Meeting; Request for Comments.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov*. Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf*.

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: William Lewallen, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 6304, Silver Spring, MD 20993–0002, 301–796–3810, *William.Lewallen@fda.hhs.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

The ICH, formerly known as the International Conference on Harmonisation, was established in 1990 as a joint regulatory/industry project to improve, through harmonization, the efficiency of the process for developing and registering new medicinal products in Europe, Japan, and the United States without compromising the regulatory requirements for safety and effectiveness. One of the goals of harmonization is to identify and then reduce regional differences in technical regulatory requirements for pharmaceutical products while preserving a consistently high standard for drug efficacy, safety, and quality.

In 2015, the ICH was reformed to establish it as a true global initiative and to expand beyond the previous ICH members. More involvement from regulators around the world is expected, as they join counterparts from Europe, Japan, the United States, Canada, and Switzerland as ICH observers and regulatory members. Expanded involvement is also anticipated from global regulated pharmaceutical industry parties, joining as ICH observers and industry members. The reforms built on a 25-year track record and have allowed ICH to continue its successful delivery of harmonized guidelines for global pharmaceutical development and their regulation.

II. Topics for Discussion at the Public Meeting

The topics for discussion at this public meeting include the current guidelines under development under the ICH. ICH guidelines are developed following a five-step process.

In step 1, experts from the different ICH regions work together to prepare a consensus draft of the step 1 technical document. The step 1 technical document is submitted to the ICH Assembly to request endorsement under step 2a of the process. Step 2b is a ''regulators only'' step in which the ICH regulatory members review the step 2a final technical document and take any actions, which might include revisions that they deem necessary, to develop the draft ''guideline.'' Step 3 of the process begins with the public consultation process conducted by each of the ICH regulatory members in their respective regions, and this step concludes with completion and acceptance of any revisions that need to be made to the step 2b draft guideline in response to public comments. Adoption of the new guideline occurs in step 4. Following adoption, the harmonized guideline moves to step 5, the final step of the process when it is implemented by each of the regulatory members in their respective regions. The ICH process has achieved significant harmonization of the technical requirements for the approval of pharmaceuticals for human use in the ICH regions since 1990. More information on the current ICH process and structure can be found at the following website: *https://www.ich.org.*

III. Participating in the Public Meeting

Registration: Persons interested in attending this public meeting must register online by April 22, 2019. To register for the public meeting, please visit the following website: *https://ich_regional_consultation_2019.eventbrite.com*. Please provide complete contact information for each attendee, including name, title, affiliation, address, email, and telephone.

Registration is free and based on space availability, with priority given to early registrants. Persons interested in attending this public meeting must register by April 22, 2019, midnight Eastern Time. Early registration is recommended because seating is limited; therefore, FDA may limit the number of participants from each organization. If time and space permit, onsite registration on the day of the public meeting will be provided beginning at 9:30 a.m.

The agenda for the public meeting will be made available on the internet at *https://www.fda.gov/Drugs/NewsEvents/ucm624770.htm* approximately 2 weeks in advance of the meeting.

If you need special accommodations due to a disability, please contact William Lewallen (see **FOR FURTHER INFORMATION CONTACT**) no later than April 15, 2019.

Requests for Oral Presentations: If you wish to make a presentation during the public comment session, please contact William Lewallen (see **FOR FURTHER INFORMATION CONTACT**) no later than April 15, 2019. Individuals and organizations with common interests are urged to consolidate or coordinate their presentations and request time for a joint presentation. If selected for presentation, any presentation materials must be emailed to William Lewallen (see **FOR FURTHER INFORMATION CONTACT**) no later than April 24, 2019. No commercial or promotional material will be permitted to be presented or distributed at the public meeting. Signup for making a public comment will also be available between 9 a.m. and 10 a.m. on the day of the meeting.

Streaming Webcast of the Public Meeting: This public meeting will also be webcast through the following link: *https://collaboration.fda.gov/ich2019*. To register to attend via webcast, please visit the following website: *https://ich_regional_consultation_2019.eventbrite.com*.

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.

Dated: March 21, 2019.

Lowell J. Schiller,

Acting Associate Commissioner for Policy.

[FR Doc. 2019–05955 Filed 3–27–19; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2010–N–0155]

Veterinary Feed Directive Regulation Questions and Answers; Small Entity Compliance Guide; Draft Guidance for Industry; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA, we, or Agency) is announcing the availability of a draft revised guidance for industry (GFI) #120 entitled ''Veterinary Feed Directive Regulation Questions and Answers.'' This draft revised guidance document, when finalized, will aid industry in complying with the requirements of the veterinary feed directive (VFD) regulation.

DATES: Submit either electronic or written comments on the draft revised guidance by May 28, 2019 to ensure that the Agency considers your comment on this draft revised guidance before it begins work on the final version of the guidance.

ADDRESSES: You may submit comments on any guidance at any time as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://*

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

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

Written/Paper Submissions

Submit written/paper submissions as follows:

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

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

Instructions: All submissions received must include the Docket No. FDA–2010–N–0155 for ''Veterinary Feed Directive Regulation Questions and Answers.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

• Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)).

Submit written requests for single copies of the draft revised guidance to the Policy and Regulations Staff (HFV–6), Center for Veterinary Medicine, Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft revised guidance document.

FOR FURTHER INFORMATION CONTACT: Dragan Momcilovic, Center for Veterinary Medicine (HFV–226), Food and Drug Administration, 7519 Standish Pl., Rockville, MD 20855, 240–402–5944, *dragan.momcilovic@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of September 30, 2015 (80 FR 58602), FDA announced the availability of GFI #120 to assist industry in complying with the VFD regulation in 21 CFR part 558. This guidance also serves as a Small Entities Compliance Guide (SECG), to aid industry in complying with the requirements of the VFD final rule that published in the **Federal Register** on June 3, 2015 (80 FR 31708). FDA prepared this SECG in accordance with section 212 of the Small Business Regulatory Enforcement Fairness Act (Pub. L. 104–121). This document provides guidance to small businesses on the requirements of the final rule. We are announcing the availability of draft revised GFI #120 to provide additional information in response to questions that have been submitted by interested parties since 2015.

II. Significance of Guidance

This level 1 draft revised guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft revised guidance, when finalized, will represent the current thinking of FDA on ''Veterinary Feed Directive Regulation Questions and Answers.'' It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations. This guidance is not subject to Executive Order 12866.

III. Paperwork Reduction Act of 1995

This draft revised guidance refers to previously approved collections of information found in FDA regulations. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in 21 CFR 558.6 have been approved under OMB control number 0910–0363.

IV. Electronic Access

Persons with access to the internet may obtain the draft revised guidance at either *https://www.fda.gov/AnimalVeterinary/GuidanceComplianceEnforcement/GuidanceforIndustry/default.htm* or *https://www.regulations.gov.* Use the FDA website listed in the previous sentence to find the most current version of the guidance.

Dated: March 22, 2019.

Lowell J. Schiller,

Acting Associate Commissioner for Policy.

[FR Doc. 2019–05976 Filed 3–27–19; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2013–D–0169]

Pediatric Information Incorporated Into Human Prescription Drug and Biological Product Labeling; Guidance for Industry; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the availability of a final guidance for industry entitled ''Pediatric Information Incorporated Into Human Prescription Drug and Biological Product Labeling.'' This guidance is intended to assist applicants in determining the appropriate placement and content of pediatric information in human prescription drug and biological product labeling as described in the regulations for the content and format of labeling for human prescription drug and biological products. This guidance finalizes the draft guidance issued on February 28, 2013.

DATES: The announcement of the guidance is published in the **Federal Register** on March 28, 2019.

ADDRESSES: You may submit either electronic or written comments on Agency guidances at any time as follows:

Electronic Submissions

Submit electronic comments in the following way:

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

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

Written/Paper Submissions

Submit written/paper submissions as follows:

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

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

Instructions: All submissions received must include the Docket No. FDA–2013–D–0169 for ''Pediatric Information Incorporated Into Human Prescription Drug and Biological Product Labeling.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

• *Confidential Submissions*—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)).

Submit written requests for single copies of this guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10001 New Hampshire Ave., Hillandale Building, 4th Floor, Silver Spring, MD 20993–0002; or Office of Communication, Outreach, and Development, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 3128, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance document.

FOR FURTHER INFORMATION CONTACT: Jacquline Yancy, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 22, Rm. 6319, Silver Spring, MD 20993–0002, 301–796–7068; or Stephen Ripley, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 7301, Silver Spring, MD 20993–0002, 240–402–7911.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a guidance for industry entitled ''Pediatric Information Incorporated Into Human Prescription Drug and Biological Product Labeling.'' This guidance is intended to assist applicants in determining the appropriate placement and content of pediatric information in human prescription drug and biological product labeling as described in the regulations for the content and format of labeling for human prescription drug and biological products. This guidance finalizes the draft guidance issued on February 28, 2013. Changes were made to make the guidance more user-friendly and to be consistent with recently published labeling guidances.

This guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The guidance represents the current thinking of FDA on pediatric information incorporated into human prescription drug and biological product labeling. It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations. This guidance is not subject to Executive Order 12866.

II. The Paperwork Reduction Act of 1995

This guidance refers to previously approved collections of information

found in FDA regulations. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in 21 CFR 201.56 and 201.57 have been approved under OMB control number 0910–0572.

III. Electronic Access

Persons with access to the internet may obtain the guidance at *https://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/default.htm, https://www.fda.gov/BiologicsBloodVaccines/GuidanceComplianceRegulatoryInformation/default.htm,* or *https://www.regulations.gov.*

Dated: March 22, 2019.

Lowell J. Schiller,

Acting Associate Commissioner for Policy.

[FR Doc. 2019–05977 Filed 3–27–19; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel; ''NIAID Investigator Initiated Program Project Applications (P01)''.

Date: April 23, 2019.

Time: 11:00 a.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 5601 Fishers Lane, Rockville, MD 20892 (Telephone Conference Call).

Contact Person: Thomas F. Conway, Ph.D., Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, Room 3G51, National Institutes of Health, NIAID, 5601 Fishers Lane, MSC 9823, Bethesda, MD 20892–9823, 240–507–9685, *thomas.conway@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: March 25, 2019.

Natasha M. Copeland,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2019–05964 Filed 3–27–19; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; 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 Allergy and Infectious Diseases Special Emphasis Panel; NIH Tetramer Core Facility.

Date: April 10, 2019.

Time: 1:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Institutes of Health, 5601 Fishers Lane, Rockville, MD 20892 (Telephone Conference Call).

Contact Person: Sandip Bhattacharyya, Ph.D., Scientific Review Program, DEA/NIAID/NIH/DHHS, 5601 Fishers Lane, MSC–9823, Rockville, MD 20852, 240–292–0189, *sandip.bhattacharyya@nih.gov.*

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel; NIAID Clinical Trial Implementation Cooperative Agreement (U01 Clinical Trial Required).

Date: April 22, 2019.

Time: 10:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 5601 Fishers Lane, Rockville, MD 20892 (Telephone Conference Call).

Contact Person: Chelsea D. Boyd, Ph.D., Scientific Review Officer, Scientific Review Program, DEA/NIAID/NIH/DHHS, 5601 Fishers Lane, MSC–9823, Rockville, MD 20852–9834, 240–669–2081, *chelsea.boyd@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: March 22, 2019.

Natasha M. Copeland,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2019–05961 Filed 3–27–19; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review Amended; Notice of Meeting

Notice is hereby given of a change in the meeting of the Center for Scientific Review Special Emphasis Panel, March 20, 2019, 02:00 p.m. to March 20, 2019, 03:00 p.m., National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD, 20892 which was published in the **Federal Register** on March 1, 2019, 84 FR 7087.

The start date is April 17, 2019 instead of March 20, 2019. The meeting location remains the same. The meeting is closed to the public.

Dated: March 22, 2019.

Natasha M. Copeland,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2019–05960 Filed 3–27–19; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health Amended; Notice of Meeting

Notice is hereby given of a change in the meeting of the National Institute of Mental Health Special Emphasis Panel, April 03, 2019, 10:00 a.m. to April 03, 2019, 04:00 p.m., National Institutes of Health, Neuroscience Center Building (NSC), 6001 Executive Boulevard, Rockville, MD, 20852 which was published in the **Federal Register** on February 20, 2019, 84 FR 5089.

This meeting notice is amended to change the meeting date from April 3, 2019 to April 12, 2019. The meeting is closed to the public.

Dated: March 22, 2019.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2019–05965 Filed 3–27–19; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; 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 contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel; Bioinformatics Resource Centers for Infectious Diseases.

Date: April 24, 2019.

Time: 10:00 a.m. to 4:00 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Institutes of Health, 5601 Fishers Lane, Rockville, MD 20892 (Virtual Meeting).

Contact Person: Frank S. De Silva, Ph.D., Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, Room #3E72A, National Institutes of Health/NIAID, 5601 Fishers Lane, MSC 9823, Rockville, MD 20892–9823, (240) 669–5023, *fdesilva@niaid.nih.gov*.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel; HHS–NIH–CDC–SBIR 2017–1 Phase II Topic 40: Effective Targeted Delivery of RNA-based Vaccines and Therapeutics.

Date: April 24, 2019.

Time: 12:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Institutes of Health, 5601 Fishers Lane, Rockville, MD 20892 (Telephone Conference Call).

Contact Person: Chelsea D. Boyd, Ph.D., Scientific Review Officer, Scientific Review Program, DEA/NIAID/NIH/DHHS, 5601 Fishers Lane, MSC–9823, Rockville, MD 20852–9834, 240–669–2081, *chelsea.boyd@nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: March 25, 2019.

Natasha M. Copeland,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2019–05962 Filed 3–27–19; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel Detection of HIV for Self-Testing (R61/R33).

Date: April 24–25, 2019.

Time: 10:30 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 5601 Fishers Lane, Rockville, MD 20892 (Telephone Conference Call).

Contact Person: Roberta Binder, Ph.D., Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, Room 3G21A, National Institutes of Health/NIAID, 5601 Fishers Lane, MSC 9823, Bethesda, MD 20892–9823, (240) 669–5050, *rbinder@niaid.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: March 25, 2019.

Natasha M. Copeland,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2019–05963 Filed 3–27–19; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Center for Substance Abuse Prevention; Notice of Meeting

Pursuant to Public Law 92–463, notice is hereby given for the meeting of the Substance Abuse and Mental Health Services Administration's (SAMHSA) Center for Substance Abuse Prevention National Advisory Council (CSAP NAC) on April 29, 2019.

The Council was established to advise the Secretary, Department of Health and Human Services (HHS); the Assistant Secretary for Mental Health and Substance Use, SAMHSA; and Director, CSAP concerning matters relating to the activities carried out by and through the Center and the policies respecting such activities.

The meeting will be open to the public and will include discussion of the substance use prevention workforce, Prevention Technology Transfer Centers, National Survey on Drug Use and Health data, and updates on CSAP program developments.

The meeting will be held in Rockville, Maryland (online/phone only). Interested persons may present data, information, or views, orally or in writing, on issues pending before the Council. Written submissions should be forwarded to the contact person on or before one week prior to the meeting. Oral presentations from the public will be scheduled at the conclusion of the meeting. Individuals interested in making oral presentations should notify the contact on or before one week prior to the meeting. Five minutes maximum will be allotted for each presentation.

To attend the virtual meeting, submit written or brief oral comments, or request special accommodations for persons with disabilities, please register at the SAMHSA Committees' website, *http://snacregister.samhsa.gov/MeetingList.aspx,* or communicate with the CSAP Council's Designated Federal Officer (see contact information below). Substantive program information may be obtained after the meeting by accessing the SAMHSA Committee website, *https://www.samhsa.gov/about-us/advisory-councils,* or by contacting the Designated Federal Officer.

Committee Name: Substance Abuse and Mental Health Services Administration, Center for Substance Abuse Prevention National Advisory Council.

Date/Time/Type: April 29, 2019 from 12:00 p.m. to 5:00 p.m. EDT: (OPEN).

Place: Adobe Connect webcast: *https://samhsa-csap.adobeconnect.com/nac/*, Phone: 888–398–6901, Passcode: 1320907.

Contact: Matthew J. Aumen, Designated Federal Officer, SAMHSA CSAP NAC, 5600 Fishers Lane, Rockville, MD 20852, Telephone: 240–276–2440, Fax: 301–480–8480, Email: *matthew.aumen@samhsa.hhs.gov*.

Dated: March 24, 2019.

Carlos Castillo,

Committee Management Officer, SAMHSA.

[FR Doc. 2019–05926 Filed 3–27–19; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOMELAND SECURITY

Cybersecurity and Infrastructure Security Agency; Notice of Renewal of the Critical Infrastructure Partnership Advisory Council Charter

AGENCY: Cybersecurity and Infrastructure Security Agency (CISA), DHS.

ACTION: Notice of availability; renewal of Critical Infrastructure Partnership Advisory Council Charter.

SUMMARY: On November 30, 2018, the Department renewed the Critical Infrastructure Partnership Advisory Council Charter. Through this notice, the Department is making the renewed CIPAC Charter publicly available and highlighting updated information and guidelines that have been included in the renewed charter.

FOR FURTHER INFORMATION CONTACT: Renee Murphy, Designated Federal Officer, (202) 590–0840, *CIPAC@hq.dhs.gov*.

SUPPLEMENTARY INFORMATION: DHS established the Critical Infrastructure Partnership Advisory Council (CIPAC) and issued the initial CIPAC Charter on March 24, 2006.[1] 71 FR 14930. The CIPAC facilitates interactions between government officials and representatives of owners and/or operators for each of the critical infrastructure sectors defined by Presidential Policy Directive 21 and identified in the National Infrastructure Protection Plan 2013: Partnering for Critical Infrastructure Security and Resilience. Please visit *http://www.dhs.gov/cipac* for more information on the CIPAC, the activities supported by the CIPAC, the CIPAC Membership Roster, and Council information.

On November 30, 2018, the Secretary of Homeland Security, Kirstjen M. Nielsen signed a renewal of the CIPAC Charter for an additional two years. The renewed CIPAC Charter supersedes the CIPAC Charter dated November 30, 2016 and is available on the CIPAC website at *http://www.dhs.gov/cipac*. The renewed CIPAC Charter includes updated information and guidelines concerning: (1) The formation and governance of working groups and cross sector activities; (2) the role of subject matter experts and limitations on their participation in the CIPAC; (3) types of meetings that occur under the CIPAC; and (4) ethics, government procurement, and intellectual property requirements for the CIPAC.

Dated: March 13, 2019.

Renee Murphy,

Designated Federal Officer, Critical Infrastructure Partnership Advisory Council, Department of Homeland Security.

[FR Doc. 2019–05966 Filed 3–27–19; 8:45 am]

BILLING CODE 9110–9P–P

[1] The CIPAC was established consistent with 6 U.S.C. 121 and 6 U.S.C. 451(a). Pursuant to the Cybersecurity and Infrastructure Security Agency Act of 2018, the National Protection Program Directorate (NPPD) was redesignated as CISA and the authorities related to the CIPAC under 6 U.S.C. 121 were transferred to 6 U.S.C. 652. See 6 U.S.C. 652.

DEPARTMENT OF HOMELAND SECURITY

Agency Information Collection Activities: Homeland Security Acquisition Regulation (HSAR) Post-Award Contract Information

AGENCY: Office of the Chief Procurement Officer (OCPO), Department of Homeland Security (DHS).

ACTION: 30-Day notice and request for comments; Extension of a currently approved collection, 1600–0003.

SUMMARY: The DHS OCPO 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 requested is used by the Government's contracting officers and other acquisition personnel, including technical and legal staff, for various reasons such as determining the suitability of contractor personnel accessing DHS facilities; to ensure no organizational conflicts of interest exist during the performance of contracts; to ensure the contractor maintains applicable licenses and permits for the removal and disposal of hazardous materials; and to otherwise ensure firms are performing in the Government's best interest. DHS previously published this ICR in the **Federal Register** on Wednesday, April 4, 2018 for a 60-day public comment period. No comments were received by DHS. The purpose of this notice is to allow an additional 30 days for public comments.

DATES: Comments are encouraged and will be accepted until April 29, 2019. This process is conducted in accordance with 5 CFR 1320.1.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to OMB Desk Officer, Department of Homeland Security and sent via electronic mail to *dhsdeskofficer@omb.eop.gov*.

SUPPLEMENTARY INFORMATION: DHS collects information, when necessary, in administering public contracts for supplies and services. The information is used to determine compliance with contract terms placed in the contract as authorized by the Federal Property and Administrative Services Act (41 U.S.C. 251 *et seq.*), the Federal Acquisition Regulation (FAR) (48 CFR Chapter 1), and the HSAR (48 CFR Chapter 30). Respondents submit information based on the terms of the contract; the instructions in the contract deliverables mandatory reporting requirements; and correspondence from acquisition personnel requesting post-award contract information. The least active contracts and the simplest contracts will have little to no data to report. The most active and complex contracts, however, will contain more reporting requirements. DHS believes that some of this information is already readily available as part of a company's business processes and that the largest businesses use computers to compile the data. However, a significant amount of time is spent correlating information to specific contract actions and gathering information for more complex contract actions.

The prior information collection request for OMB No. 1600–0003 was approved through February 28, 2019 by OMB. The purpose of this ICR is to identify the additional clauses that fall under for OMB No. 1600–0003. The collections under the HSAR are as follows:

- 3052.204–70 Security requirements for unclassified information technology resources. (Required in all solicitations and contracts that require submission of an IT Security Plan.) This clause applies to all contractor systems connected to a DHS network and those contracts where the Contractor must have physical or

electronic access to sensitive information contained in DHS unclassified systems. The contractor is asked to prepare, provide and maintain an IT Security Plan.

• 3052.204–71 Contractor employee access. (Required when contractor employees require recurring access to Government facilities or access to sensitive info.) Contractors may be subject to background investigations and will have to provide information as required by the DHS Security Office. The information requested is in addition to the information requested through Standard Form (SF) 86.

• 3052.205–70 Advertisements, Publicizing Awards, and Releases. (Required for all contracts exceeding Simplified Acquisition Threshold.) Contractors may have to provide copies of information related to advertisements and release statements to receive approval for publication.

• 3052.209–72 Organizational Conflict of Interest, paragraphs (f) and (g) (Included in solicitations and contracts where a potential organizational conflict of interest exists and mitigation may be possible.) Contractors will have to provide information related to actual or potential conflicts of interest and a mitigation plan.

• 3052.209–75 Prohibited Financial Interests for Lead System Integrators. (Required in solicitations and contracts for the acquisition of a major system when the acquisition strategy envisions the use of a lead system integrator or when the contractor will be the lead system integrator.) Contractors will have to provide information related to changes in financial interests.

• 3052.209–76 Prohibition on Federal Protective Service Guard Services Contracts with Business Concerns Owned, Controlled, or Operated by an Individual Convicted of a Felony, paragraph (h). (Section 2 of the Federal Protective Service Guard Contracting Reform Act of 2008, Pub. L. 110–356, generally prohibits DHS from entering into a contract for guard services under the Federal Protective Service (FPS) guard services program with any business concern owned, controlled, or operated by an individual convicted of a serious felony.) The notification required by paragraph (h) applies to any contractual instrument that may result in the issuance of task orders. Contractors will have to provide information on any felony conviction of personnel who own, control or operate a business during the performance a contract.

• 3052.215–70 Key personnel or facilities. (Required in solicitations and contracts when the selection for award is substantially based on the offeror's possession of special capabilities regarding personnel or facilities.) Contractors will have to provide notice of and documentation related to changes in key personnel for evaluation, including, resumes; description of the duties the replacement will assume; description of any change in duties and confirmation that such change will not negatively impact contract performance.

• 3052.216–71 Determination of Award Fee. (Required in solicitations and contracts that include an award fee.) Contractor may submit a performance self-evaluation for each evaluation period.

• 3052.217–91 Performance (U.S. Coast Guard (USCG)). (Required in sealed bid fixed-price solicitations and contracts for vessel repair, alteration, or conversion which are to be performed within the United States, its possessions, or Puerto Rico. Also required in negotiated solicitations and contracts to be performed outside the United States.) Contractor must request prior approval to conduct dock and sea trials.

• 3052.217–92 Inspection and Manner of Doing Work (USCG). (Required in sealed bid fixed-price solicitations and contracts for vessel repair, alteration, or conversion which are to be performed within the United States, its possessions, or Puerto Rico. Also required in negotiated solicitations and contracts to be performed outside the United States.) Contractor must maintain complete records of all inspection work and shall make them available to the Government during performance of the contract and for 90 days after the completion of all work required.

• 3052.217–95 Liability and Insurance (USCG). (Required in sealed bid fixed-price solicitations and contracts for vessel repair, alteration, or conversion which are to be performed within the United States, its possessions, or Puerto Rico. Also required in negotiated solicitations and contracts to be performed outside the United States.) Contractor shall provide evidence of the insurance and give the Contracting Officer written notice after the occurrence of a loss or damage for which the Government has assumed the risk. If any loss or damage will result in a claim against the Government, the contractor shall provide notice.

• 3052.219–70 Small Business subcontracting plan reporting. (Generally included in solicitations and contracts that offer subcontracting possibilities and are expected to exceed $700,000.) Contractors must use Electronic Subcontracting Reporting System (eSRS) to submit subcontracting reporting data.

• 3052.219–71 DHS Mentor-Protégé Program. (Included in solicitations where subcontracting plans are anticipated) The amount of credit given to a contractor mentor firm for protégé developmental assistance costs must be calculated on a dollar for dollar basis and reported in the Summary Subcontract Report via the Electronic Subcontracting Reporting System (eSRS) at *www.esrs.gov*.

• 3052.222–70 Strikes or Picketing Affecting Timely Completion of the Contract Work. (Generally included in solicitations and contracts.) Contractor must take all reasonable and appropriate action to end a strike or picketing. Delay caused by a strike or by picketing which constitutes an unfair labor practice is not excusable unless the Contractor takes all reasonable and appropriate action to end such a strike or picketing, such as the filing of a charge with the National Labor Relations Board, the use of other available Government procedures, and the use of private boards or organizations for the settlement of disputes. The contractor may be required to submit information to the contracting officer.

• 3052.222–71 Strikes or Picketing Affecting Access to a DHS Facility. (Generally included in solicitations and contracts.) Contractor is responsible if strike or picketing is directed at the Contractor and impedes access by any person to a DHS facility. Contractor must take all reasonable and appropriate action to end a strike or picketing. The contractor may be required to submit information to the contracting officer.

• 3052.223–70 Removal or disposal of hazardous substances—applicable licenses and permits. (Required in solicitations and contracts involving the removal or disposal of hazardous waste material.) Contractors will have to provide evidence of licenses and permits to perform hazardous substance removal.

• 3052.223–90 Accident and Fire Reporting (USCG). (Included in solicitations and contracts involving the removal of hazardous waste material.) Contractor must report incidents involving fire or accidents at a worksite. Contractors may provide this information using a state, private insurance carrier, or Contractor accident report form.

• 3052.228–91 Loss of or Damage to Leased Aircraft (USCG). (Included in any contract for the lease of an aircraft.) In the event of loss of or damage to an aircraft, the Government shall be subrogated to all rights of recovery by

the Contractor against third parties for such loss or damage and the Contractor must promptly assign such rights in writing to the Government.

• 3052.228–93 Risk and Indemnities (USCG). (Included in any contract for the lease of an aircraft.) Requires the contractor to provide the Government with evidence of insurance.

• 3052.235.70 Dissemination of Information-Educational Institutions. (Included in contracts with educational institutions for research that are not sensitive or classified.) Contractors must provide advanced electronic copies of articles to the Government covering the results of research it plans to publish.

The information requested is used by the Government's contracting officers and other acquisition personnel, including technical and legal staff, for various reasons such as determining the suitability of contractor personnel accessing DHS facilities; to ensure no organizational conflicts of interest exist during the performance of contracts; to ensure the contractor maintains applicable licenses and permits for the removal and disposal of hazardous materials; and to otherwise ensure firms are performing in the Government's best interest. Failure to collect this information would adversely affect the quality of products and services DHS receives from contractors. For example, potentially, contractors who are lead system integrators could acquire direct financial interests in major systems the contractors are contracted to procure, which would compromise the integrity of acquisitions for the Department. In addition, contractors who own, control or operate a business providing protective guard services could possess felony convictions during the performance of contracts, putting the Department at risk. Furthermore, contractors could change key personnel during the performance of contracts and use less experienced or less qualified personnel to reduce costs, which would adversely affect DHS's fulfillment of its mission requirements.

Many sources of the requested information use automated word processing systems, databases, spreadsheets, project management and other commercial software to facilitate preparation of material to be submitted. With Government-wide implementation of e-Government initiatives, it is commonplace within many of DHS's Components for submissions to be electronic.

Disclosure/non-disclosure of information is handled in accordance with the Freedom of Information Act (FOIA), other disclosure statutes, and Federal and agency acquisition regulations.

The burden estimates are based upon definitive contract award data reported by DHS and its Components to the Federal Procurement Data System (FPDS) for Fiscal Year 2016. No program changes occurred, however the burden was adjusted to reflect an increase in the number of respondents within DHS for Fiscal Year 2016, as well as an increase in the average hourly wage rate. The decrease in the previously reported average burden per response (from 14 hours to 6.2 hours) is as a result of the addition of clauses to the burden hour analysis with relatively low burden hours.

This is an extension of a currently approved collection, 1600–0003. OMB is particularly interested in comments which:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

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

4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

Analysis

Agency: Office of the Chief Procurement Officer, DHS.

Title: Agency Information Collection Activities: Homeland Security Acquisition Regulation (HSAR) Post-Award Contract Information.

OMB Number: 1600–0003.

Frequency: On Occasion.

Affected Public: Individuals or Households.

Number of Respondents: 12,627.

Estimated Time per Respondent: 6.2 hours.

Total Burden Hours: 234,862.

Dated: March 19, 2019.

Scott Ewalt,

Acting Executive Director, Enterprise Business Management Office.

[FR Doc. 2019–05967 Filed 3–27–19; 8:45 am]

BILLING CODE 9110–9B–P

DEPARTMENT OF THE INTERIOR

Geological Survey

[GX19.WB12.C25A1.00; OMB Control Number 1028–0116/Renewal]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Alaska Beak Deformity Observations

AGENCY: U.S. Geological Survey, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, we, the U.S. Geological Survey (USGS) are proposing to renew an information collection.

DATES: Interested persons are invited to submit comments on or before April 29, 2019.

ADDRESSES: Send written comments on this information collection request (ICR) to the Office of Management and Budget's Desk Officer for the Department of the Interior by email at *OIRA_Submission@omb.eop.gov;* or via facsimile to (202) 395–5806. Please provide a copy of your comments to U.S. Geological Survey, Information Collections Officer, 12201 Sunrise Valley Drive MS 159, Reston, VA 20192; or by email to *gs-info_collections@usgs.gov.* Please reference OMB Control Number 1028–0116 in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Colleen Handel, Alaska Science Center by email at *cmhandel@usgs.gov,* or by telephone at 907–786–7181. You may also view the ICR at *http://www.reginfo.gov/public/do/PRAMain.*

SUPPLEMENTARY INFORMATION: In accordance with the Paperwork Reduction Act of 1995, we provide the general public and other Federal agencies with an opportunity to comment on new, proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

A **Federal Register** notice with a 60-day public comment period soliciting comments on this collection of information was published on December 6, 2018 (83 FR 62881). No comments were received.

We are again soliciting comments on the proposed ICR that is described below. We are especially interested in public comment addressing the following issues: (1) Is the collection necessary to the proper functions of the USGS; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the USGS enhance the quality, utility, and clarity of the information to be collected; and (5) how might the USGS minimize the burden of this collection on the respondents, including through the use of information technology.

Comments that you submit in response to this notice are a matter of public record. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Abstract: As part of the USGS Ecosystems mission to assess the status and trends of the Nation's biological resources, the Alaska Science Center Landbird Program conducts research on avian populations within Alaska. Beginning in the late 1990s, an outbreak of beak deformities in Black-capped Chickadees emerged in southcentral Alaska. USGS scientists launched a study to understand the scope of this problem and its effect on wild birds. Since that time, researchers have gathered important information about the deformities but their cause still remains unknown. Members of the public provide observation reports of birds with deformities from around Alaska and other regions of North America. These reports are very important in that they allow researchers to determine the geographical distribution and species affected. Data collection over such a large and remote area would not be possible without the public's assistance.

Title of Collection: Alaska Beak Deformity Observations.

OMB Control Number: 1028–0116.

Form Number: None.

Type of Review: Extension of a currently approved collection.

Respondents/Affected Public: Individuals/households.

Total Estimated Number of Annual Respondents: 250.

Total Estimated Number of Annual Responses: 250.

Estimated Completion Time per Response: 5 minutes to read the instructions and 10 minutes to complete the response form.

Total Estimated Number of Annual Burden Hours: 63 hours.

Respondent's Obligation: Voluntary.

Frequency of Collection: On occasion.

Total Estimated Annual Nonhour Burden Cost: None.

An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

The authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq*).

Christian Zimmerman,

Alaska Science Center Director.

[FR Doc. 2019–05907 Filed 3–27–19; 8:45 am]

BILLING CODE 4338–11–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0027397; PPWOCRADN0–PCU00RP14.R50000]

Notice of Intent To Repatriate Cultural Items: The Field Museum, Chicago, IL

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The Field Museum, in consultation with the appropriate Indian Tribes or Native Hawaiian organizations, has determined that the cultural items listed in this notice meet the definition of unassociated funerary objects. Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to claim these cultural items should submit a written request to the Field Museum. If no additional claimants come forward, transfer of control of the cultural items to the lineal descendants, Indian Tribes, or Native Hawaiian organizations stated in this notice may proceed.

DATES: Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to claim these cultural items should submit a written request with information in support of the claim to the Field Museum at the address in this notice by April 29, 2019.

ADDRESSES: Helen Robbins, The Field Museum, 1400 S Lake Shore Drive, Chicago, IL 60605, telephone (312) 665–7317, email *hrobbins@fieldmuseum.org.*

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3005, of the intent to repatriate cultural items under the control of the Field Museum, Chicago, IL that meet the definition of unassociated funerary objects under 25 U.S.C. 3001.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American cultural items. The National Park Service is not responsible for the determinations in this notice.

History and Description of the Cultural Items

In 1899, 54 cultural items were removed from the sites of Homolovi I and II in Navajo County, AZ. These items were removed from burials by J.A. Burt, an employee of the Field Museum, as part of a Museum-sponsored excavation he conducted during the winter of 1899–1900. The 38 unassociated funerary objects from Homolovi I consist of one awl, one knife, one stone ear pendant, three ceramic mugs, four ceramic ladles, four ceramic pots, and 24 ceramic bowls. The 16 unassociated funerary objects from Homolovi II consist of one ceramic cup, one chipped stone object, two ceramic ladles, four ceramic pots, and eight ceramic bowls.

Homolovi I was occupied from around A.D. 1285 to 1390, and Homolovi II was occupied from around A.D. 1350 to 1400. Based on archeological research, scholarly research, consultation, and museum records, both Homolovi I and II are affiliated with the Hopi Tribe of Arizona and the Zuni Tribe of the Zuni Reservation, New Mexico. The items described above were determined to be unassociated funerary objects based on Burt's own notes, which indicate the specific grave from which he removed each item.

Determinations Made by the Field Museum

Officials of the Field Museum have determined that:

- Pursuant to 25 U.S.C. 3001(3)(B), the 54 cultural items described above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony and are believed, by a preponderance of the evidence, to have been removed from a specific burial site of a Native American individual.

• Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the unassociated funerary objects and the Hopi Tribe of Arizona and the Zuni Tribe of the Zuni Reservation, New Mexico.

Additional Requestors and Disposition

Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to claim these cultural items should submit a written request with information in support of the claim to Helen Robbins, The Field Museum, 1400 S Lake Shore Drive, Chicago, IL 60605, telephone (312) 665–7317, email *hrobbins@fieldmuseum.org,* by April 29, 2019. After that date, if no additional claimants have come forward, transfer of control of the unassociated funerary objects to the Hopi Tribe of Arizona and the Zuni Tribe of the Zuni Reservation, New Mexico may proceed.

The Field Museum is responsible for notifying the Hopi Tribe of Arizona and the Zuni Tribe of the Zuni Reservation, New Mexico that this notice has been published.

Dated: February 25, 2019.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2019–06003 Filed 3–27–19; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0027384; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: University of Alabama Museums, Tuscaloosa, AL

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The University of Alabama Museums has completed an inventory of human remains, in consultation with the appropriate Indian Tribes or Native Hawaiian organizations, and has determined that there is a cultural affiliation between the human remains and present-day Indian Tribes or Native Hawaiian organizations. Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request to the University of Alabama Museums. If no additional requestors come forward, transfer of control of the human remains to the lineal descendants, Indian Tribes, or Native Hawaiian organizations stated in this notice may proceed.

DATES: Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request with information in support of the request to the University of Alabama Museums at the address in this notice by April 29, 2019.

ADDRESSES: Dr. William Bomar, Executive Director, University of Alabama Museums, 121 Smith Hall, Tuscaloosa, AL 35487, telephone (205) 348–7550, email *bbomar@ua.edu.*

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains under the control of the University of Alabama Museums, Tuscaloosa, AL. The human remains were removed from site 1Ce308, Cherokee County, AL, and site 1Tu52, Tuscaloosa County, AL.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and funerary objects. The National Park Service is not responsible for the determinations in this notice.

Consultation

A detailed assessment of the human remains was made by the University of Alabama Museums professional staff in consultation with representatives of the Alabama-Coushatta Tribe of Texas (previously listed as the Alabama-Coushatta Tribes of Texas); Cherokee Nation; Coushatta Tribe of Louisiana; Eastern Band of Cherokee Indians; The Chickasaw Nation; The Choctaw Nation of Oklahoma; The Muscogee (Creek) Nation; and the United Keetoowah Band of Cherokee Indians in Oklahoma (hereafter referred to as ''The Consulted Tribes'').

History and Description of the Remains

In 1976, human remains representing, at minimum, four individuals were removed from Site 1Ce308, Polecat Ford, in Cherokee County, AL. After deep plowing exposed burials, the site was leased to a group of looters. Their excavations encountered a number of burials which included Protohistoric, Barnette phase, aboriginal artifacts along with items of sixteenth century European manufacture. Two archeologists subsequently worked to locate and document as much cultural material as possible, and made a surface collection at the site. In 1981, the human remains they recovered were donated to the University of Alabama. The human remains include fragments of human bone from the surface or with no provenience, and include the following individuals: Miscellaneous 1A (HRID 4673.1) from the surface, a 25–35 year old female; Miscellaneous 1B (HRID 4673.2) from the surface, a 25–35 year old of indeterminate sex; Miscellaneous 1C (HRID 4673.3) from the surface, an individual of indeterminate sex at least 18 years old; and Miscellaneous 2 (HRID 4674), unprovenienced, a male 20–30 years old. No known individuals were identified. No associated funerary objects are present.

The mortuary practices exhibited at this site are consistent with known aboriginal practices. The Protohistoric component at Site 1Ce308 is marked by pottery of the sand tempered Lamar ceramic series. The Lamar ceramics, the artifacts of European manufacture, and other artifacts such as Citico style shell gorgets are consistent with a sixteenth century date. The Protohistoric Barnette phase is considered to be directly ancestral to the eighteenth century Coosa-Abhika Creek towns.

In 1936, human remains representing, at minimum, two individuals were removed from site 1Tu52, the Haney site, in Tuscaloosa County, AL. Site 1Tu52 was originally discovered in 1931, when the landowner plowed up a burial containing five glass beads. In 1933, he brought this find to the attention of the Alabama Museum of Natural History, now within the University of Alabama Museums. The Alabama Museum of Natural History conducted excavations at the site in 1936. These excavations encountered four burials, all within a relatively small, 2 meter by 5 meter area. The human remains were very poorly preserved, and only human remains from Burial 1 are present in the collection. The human remains have been at the University of Alabama since 1936. Two individuals are represented within Burial 1. Burial 1A (HRID 4716.1) is a 12–16 year old of unknown sex. Burial 1B (HRID 4716.2) is a 3–5 year old. One associated funerary object, an occurrence of glass beads, is missing from the collection.

Trade goods associated with each burial may be dated to the late eighteenth century. That date is corroborated by both the 1936 excavations and a subsequent

reinvestigation by a University of Alabama student site for a 2011 M.A. thesis. The historic Native American ceramics from both investigations are primarily Creek related: Chattahoochee Brushed, Oakmulgee Fields Incised, and sherds of the shell tempered McKee Island series. It should be noted, however, that one sherd of Chickachae Combed, a Choctaw type, was also found.

Determinations Made by the University of Alabama Museums

Officials of the University of Alabama Museums have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of six individuals of Native American ancestry.
- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and The Muscogee (Creek) Nation.

Additional Requestors and Disposition

Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request with information in support of the request to Dr. William Bomar, Executive Director, University of Alabama Museums, 121 Smith Hall, Tuscaloosa, AL 35487, telephone (205) 348–7550, email *bbomar@ua.edu,* by April 29, 2019. After that date, if no additional requestors have come forward, transfer of control of the human remains to The Muscogee (Creek) Nation may proceed.

The University of Alabama Museums is responsible for notifying The Consulted Tribes that this notice has been published.

Dated: February 25, 2019.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2019–05995 Filed 3–27–19; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0027388; PPWOCRADN0–PCU00RP14.R50000]

Notice of Intent To Repatriate Cultural Items: Fowler Museum at University of California Los Angeles, Los Angeles, CA

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The Fowler Museum at University of California (UCLA) in consultation with the appropriate Indian Tribes or Native Hawaiian organizations, has determined that the cultural items listed in this notice meet the definition of unassociated funerary objects. Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to claim these cultural items should submit a written request to the Fowler Museum at UCLA. If no additional claimants come forward, transfer of control of the cultural items to the lineal descendants, Indian Tribes, or Native Hawaiian organizations stated in this notice may proceed.

DATES: Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to claim these cultural items should submit a written request with information in support of the claim to the Fowler Museum at UCLA at the address in this notice by April 29, 2019.

ADDRESSES: Wendy G. Teeter, Ph.D., Fowler Museum at UCLA, Box 951549, Los Angeles, CA 90095–1549, telephone (310) 825–1864, email *wteeter@arts.ucla.edu.*

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3005, of the intent to repatriate cultural items under the control of the Fowler Museum at UCLA, Los Angeles, CA that meet the definition of unassociated funerary objects under 25 U.S.C. 3001.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American cultural items. The National Park Service is not responsible for the determinations in this notice.

History and Description of the Cultural Items

In March 1960, 25 cultural items were removed from the banks of Pismo Creek (CA–SLO–832) in San Luis Obispo County, CA. Collections from the site derive from salvage operations led by M.B. McKusick before the complete destruction of a cemetery due to construction activities on privately owned land. No human remains were collected. Unassociated funerary objects were identified as being removed from the cemetery on the knoll. The collections have been curated at UCLA since 1960. The site has been dated to A.D. 340 +/ − 80 years. The 25 unassociated funerary objects are four bowl fragments, two metate fragments, two pestle fragments, 12 flaked stone tools, two flakes, one finishing stone, and two bi-pitted anvils.

Through consultation, the Fowler Museum has determined that the Pismo Creek site lies within the traditional territory of the Chumash. This determination is consistent with ethnographic and historic documentation. The unassociated funerary objects in this notice are consistent with others that are attributable to groups ancestral to the present-day Chumash people. The material culture of the earlier groups living in the geographical area encompassing the Pismo Creek site is characterized by archeologists as having passed through various stages over the past 10,000 years. Many local archeologists assert that the changes in the material culture reflect evolving ecological adaptations and related changes in social organization of the same populations, and do not represent population displacements or movements. The same range of artifact types and materials were used from the early pre-contact period until historic times. Native consultants explicitly state that population mixing, which did occur on a small scale, would not alter the continuity of the shared group identities of people associated with specific locales. Based on this evidence, shared group identity may reasonably be traced between the earlier group at the Pismo Creek site and present-day Chumash people.

Determinations Made by the Fowler Museum at University of California Los Angeles

Officials of the Fowler Museum at University of California Los Angeles have determined that:

- Pursuant to 25 U.S.C. 3001(3)(B), the 25 cultural items described above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony and are believed, by a preponderance of the evidence, to have been removed from a specific burial site of a Native American individual.
- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the unassociated funerary objects and the Santa Ynez Band of Chumash Mission Indians of the Santa Ynez Reservation, California.

Additional Requestors and Disposition

Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to claim these cultural items should submit a written request with information in support of the claim to Wendy G Teeter, Ph.D., Fowler Museum at UCLA, Box 951549, Los Angeles, CA 90095–1549, telephone (310) 825–1864, email *wteeter@arts.ucla.edu,* by April 29, 2019. After that date, if no additional claimants have come forward, transfer of control of the unassociated funerary objects to the Santa Ynez Band of Chumash Mission Indians of the Santa Ynez Reservation, California may proceed.

The Fowler Museum at University of California Los Angeles is responsible for notifying the Santa Ynez Band of Chumash Mission Indians of the Santa Ynez Reservation, California that this notice has been published.

Dated: February 25, 2019.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2019–05999 Filed 3–27–19; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0027386; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: Fowler Museum at University of California Los Angeles, Los Angeles, CA

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The Fowler Museum at University of California Los Angeles (UCLA) has completed an inventory of human remains and associated funerary objects, in consultation with the appropriate Indian Tribes or Native Hawaiian organizations, and has determined that there is a cultural affiliation between the human remains and associated funerary objects and present-day Indian Tribes or Native Hawaiian organizations. Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request to the Fowler Museum at UCLA. If no additional requestors come forward, transfer of control of the human remains and associated funerary objects to the lineal descendants, Indian Tribes, or Native Hawaiian organizations stated in this notice may proceed.

DATES: Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to the Fowler Museum at UCLA at the address in this notice by April 29, 2019.

ADDRESSES: Wendy G. Teeter, Ph.D., Fowler Museum at UCLA, Box 951549, Los Angeles, CA 90095–1549, telephone (310) 825–1864, email *wteeter@arts.ucla.edu.*

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and associated funerary objects under the control of the Fowler Museum at UCLA, Los Angeles, CA. The human remains and associated funerary objects were removed from multiple sites in Iron County, UT.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations in this notice.

Consultation

A detailed assessment of the human remains was made by the Fowler Museum professional staff in consultation with representatives of the Hopi Tribe of Arizona; Kaibab Band of Paiute Indians of the Kaibab Indian Reservation, Arizona; Kewa Pueblo, New Mexico (previously listed as the Pueblo of Santo Domingo); Navajo Nation, Arizona, New Mexico & Utah; Ohkay Owingeh, New Mexico (previously listed as the Pueblo of San Juan); Paiute Indian Tribe of Utah (Cedar Band of Paiutes, Kanosh Band of Paiutes, Koosharem Band of Paiutes, Indian Peaks Band of Paiutes, and Shivwits Band of Paiutes (formerly Paiute Indian Tribe of Utah (Cedar City Band of Paiutes, Kanosh Band of Paiutes, Koosharem Band of Paiutes, Indian Peaks Band of Paiutes, and Shivwits Band of Paiutes)); Pueblo of Acoma, New Mexico; Pueblo of Laguna, New Mexico; Pueblo of San Ildefonso, New Mexico; Pueblo of Santa Ana, New Mexico; Pueblo of Santa Clara, New Mexico; Pueblo of Taos, New Mexico; and the Zuni Tribe of the Zuni Reservation, New Mexico. The Havasupai Tribe of the Havasupai Reservation, Arizona; Pueblo of Cochiti, New Mexico; Pueblo of Isleta, New Mexico; Pueblo of Jemez, New Mexico; Pueblo of Nambe, New Mexico; Pueblo of Picuris, New Mexico; Pueblo of Pojoaque, New Mexico; Pueblo of San Felipe, New Mexico; Pueblo of Sandia, New Mexico; Pueblo of Tesuque, New Mexico; and the Pueblo of Zia, New Mexico, were invited to consult. Hereafter, all tribes listed in this section are referred to as ''The Consulted and Invited Tribes.''

History and Description of the Remains

In 1961, 1962, and 1964, human remains representing, at minimum, 15 individuals were removed from Summit (42–IN–40) in Iron County, UT. UCLA Anthropology conducted multiyear research through field schools and excavations directed by Claude N. Warren et al. (1961) and Jay Ruby (1962 and 1964). The site is dated to A.D. 900–1100 based on the diagnostic cultural materials identified. In the 1980s, UCLA Anthropology transferred all its archeological collections to the Fowler Museum at UCLA. The 1961 excavations include a burial containing two infants and fragmentary remains representing, at minimum, four adults. The 1962 excavations identified a burial containing a child and fragmentary remains representing, at minimum, four individuals. The 1964 excavations identified two burials, each containing two adult males and fragmentary remains representing an infant and an adult. No known individuals were identified. The 14 associated funerary objects are two pieces of stone debitage, one hammerstone, one ceramic sherd, four ceramic sherds, three flakes, and three unmodified animal bones. One piece of stone debitage is currently missing from the collections.

In 1954–1960, human remains representing, at minimum, nine individuals were removed from Paragonah (42–IN–43) in Iron County, UT. UCLA Anthropology conducted multiyear research on private land through field schools and excavations directed by Clement Meighan (1954–1956), H. B. Nicholson (1957), and M. B. McKusick (1959–1960). The site is dated to A.D. 1050–1135 based on radiocarbon dating. In the 1980s, UCLA Anthropology transferred all its archeological collections to the Fowler Museum at UCLA. The excavations identified four burials. The human remains include one adult male, one adult female, one infant, one juvenile,

four adults of undetermined sex, and one juvenile of undetermined sex. No known individuals were identified. The 586 associated funerary objects are 342 pieces of unmodified animal bone, three bags of unmodified animal bones, 208 ceramic sherds, one ceramic pot, one antler wedge, three red pigment samples, five bags of basketry fragments, one bone awl, two burial stones, five organic fragments, one bag of clay with cordage and feather impressions, one bag of wood fragments, two stone beads, five stone manos, three hammerstones, one stone scraper, one stone flake, and one stone hatch cover fragment. The following 296 associated funerary objects are currently missing from the collections: One bone gaming piece, 24 pieces of animal bone, one worked pottery sherd, 199 pottery sherds and one bag of pottery sherds, 10 pieces of charcoal, nine bags of charcoal, one clay sample, 17 pieces of carbonized seeds, six bags of carbonized seeds, eight pieces of corn cob fragments and two bags of corn cob fragments, one bag of wood fragments, two pieces of clay with wood fragments, four pieces of chipped stone, nine projectile points, and one stone bead. There is a note that materials from Robinson's Silo and House 16 are on permanent loan to the College of Southern Utah since June 1960.

In the summer of 1960, human remains representing, at minimum, four individuals were removed from Evan's Mound (42–IN–44) in Iron County, UT, during a summer field school conducted by UCLA Anthropologist M. B. McKusick. The site is dated to A.D. 1050–1130 based on radiocarbon dating. In the 1980s, UCLA Anthropology transferred all its archeological collections to the Fowler Museum at UCLA. Excavations identified a burial containing, at minimum, two infants, one adult of unknown sex, and one infant of unknown sex. No known individuals were identified. The three associated funerary objects are one lignite bead and two ceramic sherds.

In 1964, human remains representing, at minimum, 19 individuals were removed from Parowan (42–IN–100) in Iron County, UT, during a field school directed by UCLA Anthropologist Jay Ruby. The site is dated to A.D. 980–1413 based on radiocarbon dating. In the 1980s, UCLA Anthropology transferred all its archeological collections to the Fowler Museum at UCLA. Excavations identified four burials containing four infants, one perinatal, two juveniles, ten adults, and one individual that could not be identified further. No known individuals were identified. The 39 associated funerary objects are one bone gaming piece, one piece of modified bone, 12 unmodified animal bone, eight utilized flakes, two hammerstones, three stone cores, 10 ceramic sherds, one corn cob, and one organic fragment.

In 1964, human remains representing, at minimum, one individual were removed from Mortonson's Site (42–IN–103) in Iron County, UT, during a field school directed by UCLA Anthropologist Jay Ruby and Frank Balzer. The site was dated to A.D. 980–1413 by Richard Talbot. In the 1980s, UCLA Anthropology transferred all its archeological collections to the Fowler Museum at UCLA. Excavations identified a burial representing an adult male individual. No known individuals were identified. The three associated funerary objects are unmodified animal bones.

Continuity between the prehistoric Great Basin, Ancestral Puebloan, and Fremont cultures and the modern Paiute of Utah, Hopi and Zuni tribes is evidenced by similarities in material culture, architectural styles, and mortuary practices, as well as biological, geographic, ethnographic, and oral histories. Archeological studies showing continuities of basketry, ceramics and projectile point chronologies indicate a cultural affiliation between the Fremont of this area and Numic-speaking groups identified in the area during the contact period. Physical anthropologists have suggested incipient beginnings for the Fremont with ever increasing influence of Pueblo people. Genetic analyses support a close biological relationship among the Fremont and the modern Hopi and Zuni peoples. In addition, architectural styles, masonry techniques, and certain structure types suggest cultural continuity between prehistoric and modern Pueblo groups. Distinctive cultural patterns, however, indicate that the Fremont were a discrete group among the prehistoric Great Basin or Ancestral Pueblo peoples. Several sites indicate Ancestral Pueblo and Great Basin material culture alongside distinctive Fremont cultural styles, such as signature Snake Valley gray wares and rock art design styles and elements. Finally, the Hopi Tribe, the Paiute Tribe of Utah, and the Pueblo of Zuni have presented oral traditions indicating that ancestral groups and/or specific clans or lineages inhabited this Fremont area from the very earliest of times.

Determinations Made by the Fowler Museum at University of California Los Angeles

Officials of the Fowler Museum at University of California Los Angeles have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of 48 individuals of Native American ancestry.
- Pursuant to 25 U.S.C. 3001(3)(A), the 645 objects described in this notice are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and associated funerary objects and the Hopi Tribe of Arizona; Paiute Indian Tribe of Utah (Cedar Band of Paiutes, Kanosh Band of Paiutes, Koosharem Band of Paiutes, Indian Peaks Band of Paiutes, and Shivwits Band of Paiutes (formerly Paiute Indian Tribe of Utah (Cedar City Band of Paiutes, Kanosh Band of Paiutes, Koosharem Band of Paiutes, Indian Peaks Band of Paiutes, and Shivwits Band of Paiutes)); and the Zuni Tribe of the Zuni Reservation, New Mexico, hereafter referred to as ''The Affiliated Tribes''.

Additional Requestors and Disposition

Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to Wendy G. Teeter, Ph.D., Fowler Museum at UCLA, Box 951549, Los Angeles, CA 90095–1549, telephone (310) 825–1864, email *wteeter@arts.ucla.edu,* by April 29, 2019. After that date, if no additional requestors have come forward, transfer of control of the human remains and associated funerary objects to The Affiliated Tribes may proceed.

The Fowler Museum at University of California Los Angeles is responsible for notifying The Consulted and Invited Tribes that this notice has been published.

Dated: February 25, 2019.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2019–05998 Filed 3–27–19; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0027392; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: Fowler Museum at University of California Los Angeles, Los Angeles, CA

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The Fowler Museum at University of California Los Angeles (UCLA) has completed an inventory of human remains, in consultation with the appropriate Indian Tribes or Native Hawaiian organizations, and has determined that there is a cultural affiliation between the human remains and associated funerary objects and present-day Indian Tribes or Native Hawaiian organizations. Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request to the Fowler Museum at UCLA. If no additional requestors come forward, transfer of control of the human remains to the lineal descendants, Indian Tribes, or Native Hawaiian organizations stated in this notice may proceed.

DATES: Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request with information in support of the request to the Fowler Museum at UCLA at the address in this notice by April 29, 2019.

ADDRESSES: Wendy G. Teeter, Ph.D., Fowler Museum at UCLA, Box 951549, Los Angeles, CA 90095–1549, telephone (310) 825–1864, email *wteeter@arts.ucla.edu*.

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and associated funerary objects under the control of the Fowler Museum at UCLA, Los Angeles, CA. The human remains were removed from San Diego County, California.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations in this notice.

Consultation

A detailed assessment of the human remains was made by the Fowler Museum at UCLA professional staff in consultation with representatives of the La Jolla Band of Luiseno Indians, California (previously listed as the La Jolla Band of Luiseno Mission Indians of the La Jolla Reservation); Pala Band of Mission Indians (previously listed as the Pala Band of Luiseno Mission Indians of the Pala Reservation, California); Pauma Band of Luiseno Mission Indians of the Pauma & Yuima Reservation, California; Pechanga Band of Luiseno Mission Indians of the Pechanga Reservation, California; Rincon Band of Luiseno Mission Indians of the Rincon Reservation, California; and the Soboba Band of Luiseno Indians, California, hereafter referred to as ''The Tribes.'' The non-federally recognized Indian group San Luis Rey Band of Mission Indians was also consulted.

History and Description of the Remains

Between 1955 and 1957, human remains representing, at minimum, three individuals were removed from Molpa (CA–SDI–308) in San Diego County, CA. Excavations were conducted by Clement Meighan of UCLA on private property as part of UCLA archeology field classes. The collections were deposited at UCLA at the end of each field season. The site dates to the San Luis Rey II, or A.D. 1500–1800. Fragmentary human remains representing three adults of unknown sex were removed from midden contexts. No known individuals were identified. No associated funerary objects were identified.

In 1990 and 1991, human remains representing, at minimum, two individuals were removed from Mar Lado I (CA–SDI–6014) in San Luis Rey, San Diego County, CA. Excavations were conducted by INFOTEC Research, Inc. under a permit from the Army Corps of Engineers (COE) as part of the San Luis Rey River Flood Control Project. The site has been dated to 510+/-57 B.P. As COE decided that the archeological materials were not under its control, the human remains were received by the Fowler Museum in May 1991. Fragmentary human remains representing an infant individual and another individual of unknown age or sex were removed from midden contexts. No known individuals were identified. No associated funerary objects were identified.

Through consultation, the Fowler Museum has determined that all the above described sites lie within the traditional territory of the Luiseno. Moreover, the identification of these locations as ethnographically Luiseno is supported by historic documentation.

Determinations Made by the Fowler Museum at University of California Los Angeles

Officials of the Fowler Museum at University of California Los Angeles have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of five individuals of Native American ancestry.
- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between The Tribes.

Additional Requestors and Disposition

Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request with information in support of the request to Wendy G Teeter, Ph.D., Fowler Museum at UCLA, Box 951549, Los Angeles, CA 90095–1549, telephone (310) 825–1864, email *wteeter@arts.ucla.edu,* by April 29, 2019. After that date, if no additional requestors have come forward, transfer of control of the human remains to The Tribes may proceed.

The Fowler Museum is responsible for notifying The Tribes that this notice has been published.

Dated: February 25, 2019.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2019–06002 Filed 3–27–19; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0027383; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: The University of Alabama Museums, Tuscaloosa, AL; Correction

AGENCY: National Park Service, Interior.

ACTION: Notice; correction.

SUMMARY: The University of Alabama Museums has corrected an inventory of human remains and associated funerary objects in a Notice of Inventory Completion published in the **Federal Register** on June 4, 2012. This notice

corrects the minimum number of individuals and the number of associated funerary objects. Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request to the University of Alabama Museums. If no additional requestors come forward, transfer of control of the human remains and associated objects to the lineal descendants, Indian Tribes, or Native Hawaiian organizations stated in this notice may proceed.

DATES: Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to the University of Alabama Museums at the address in this notice by April 29, 2019.

ADDRESSES: Dr. William Bomar, Executive Director, University of Alabama Museums, 121 Smith Hall, Tuscaloosa, AL 35487, telephone (205) 348–7550, email *bbomar@ua.edu.*

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the correction of an inventory of human remains and associated funerary objects under the control of the University of Alabama Museums, Tuscaloosa, AL. The human remains and associated funerary objects were removed from sites 1Ce73 and 1Ce171 in Cherokee County, AL, and site 1Sc40 in St. Clair County, AL.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations in this notice.

This notice corrects the minimum number of individuals and the number of associated funerary objects in a Notice of Inventory Completion published in the **Federal Register** (77 FR 32986–32989, June 4, 2012). The correction is being made because continuing re-inventory and repacking of existing collections following the initial notice have resulted in the discovery of additional human remains and associated funerary objects. Transfer of control of the cultural items in this correction notice has not occurred.

Correction

In the **Federal Register** (77 FR 32987, June 4, 2012), column 3, paragraph 2, sentence 7 is corrected by substituting the following sentence:

The 108 associated funerary objects documented include one lot of brass arm bands, one lot of brass beads, 19 brass bells, one lot of more than 40 brass bracelets, one lot of brass collars, one lot of about 27 brass cones, three brass discs, one brass spoon, one brass sword hilt and handle, one brass wrist band, four brass animal cutouts, six fragments of sheet brass, one chert abrader, eight chert bifaces, one chert flake, two chert hammerstones, 15 chert projectile points, one chert scraper, one fragment of fabric with brass beads, one lot of about 27,000 glass beads, one glass biface, one unidentified gorget, one ground hematite, seven gun flints, one iron ax, one iron buckle, two iron harpoons, two iron hoes, six iron knives, three iron nails, one iron pin, two iron scissors, two iron fragments, one lead bead, one lot of ochre, one lot of pottery vessels, one quartzite anvil stone, one lot of silver buttons, two steatite pipes, and one trade pipe.

In the **Federal Register** (77 FR 32987, June 4, 2012), column 3, paragraph 2, sentence 11 is corrected by substituting the following sentence:

Of the total collection, 99 associated funerary objects have been located and are available for repatriation.

In the **Federal Register** (77 FR 32988, June 4, 2012), column 1, paragraph 2, sentence 1 is corrected by substituting the following sentence:

In 1958, human remains representing, at minimum, 13 individuals were removed from the Bradford Ferry site (1Ce73), in Cherokee County, AL.

In the **Federal Register** (77 FR 32988, June 4, 2012), column 1, paragraph 2, sentence 2 is corrected by substituting the following sentence:

The remains were removed from nine known burials and four other locations (HRID 4453–4462, 4495–4496, and 4462).

In the **Federal Register** (77 FR 32988, June 4, 2012), column 1, paragraph 2, sentence 7 is corrected by substituting the following sentence:

The 15 associated funerary objects documented as having been removed from the nine burials, plus two additional objects not listed as funerary objects in the original catalog, are one boat stone, three brass disks, one brass ear plug, one lot of brass and glass beads, one lot of glass beads, two iron objects (possible knife and breech plate), two chert projectile points, one lot of chert projectile points, one leather fragment, one Guntersville point, and one lot of ocher.

In the **Federal Register** (77 FR 32988, June 4, 2012), column 1, paragraph 2, sentence 10 is corrected by substituting the following sentence:

Of the total collection, 16 associated funerary objects have been located and are available for repatriation.

In the **Federal Register** (77 FR 32988, June 4, 2012), column 2, paragraph 1, sentence 1 is corrected by substituting the following sentence:

In 1959, human remains representing, at minimum, 11 individuals (HRID 4463, 4493–4494, 4555–4556, 4559, 4646.1–2, 4647, 4649, and 4652) were removed from the Seven Springs site, (1Ce101), in Cherokee County, AL.

In the **Federal Register** (77 FR 32988, June 4, 2012), column 2, paragraph 1, sentence 6 is corrected by substituting the following sentence:

The 47 associated funerary objects documented are one stone bead, one stone projectile point, one unidentified projectile point, six pottery sherds, one bone awl, one turtle shell, three brass disks, one lot glass trade beads, four rolled tubular brass beads, one fragment red ocher, 22 bone tools, one copper disc bead, one shell disc bead, one Plain Shell bowl, and two brass cones.

In the **Federal Register** (77 FR 32988, June 4, 2012), column 2, paragraph 1, sentence 9 is corrected by substituting the following sentence:

Of the total collection, 45 associated funerary objects have been located and are available for repatriation.

In the **Federal Register** (77 FR 32989, June 4, 2012), column 1, paragraph 3, sentence 1 is corrected by substituting the following sentence:

Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of 65 individuals of Native American ancestry.

In the **Federal Register** (77 FR 32989, June 4, 2012), column 1, paragraph 3, sentence 2 is corrected by substituting the following sentence:

Pursuant to 25 U.S.C. 3001(3)(A), the 206 objects described above that are accounted for in the collections are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.

Additional Requestors and Disposition

Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to Dr. William Bomar, Executive Director, University of Alabama Museums, 121 Smith Hall,

Tuscaloosa, AL 35487, telephone (205) 348–7550, email *bbomar@ua.edu,* by April 29, 2019. After that date, if no additional requestors have come forward, transfer of control of the human remains and associated funerary objects to the Alabama-Coushatta Tribe of Texas (previously listed as the Alabama-Coushatta Tribes of Texas); Alabama-Quassarte Tribal Town, Oklahoma; Miccosukee Tribe of Indians of Florida; Poarch Band of Creeks (previously listed as the Poarch Band of Creek Indians of Alabama); Seminole Tribe of Florida (previously listed as the Seminole Tribe of Florida (Dania, Big Cypress, Brighton, Hollywood & Tampa Reservations)); The Muscogee (Creek) Nation; The Seminole Nation of Oklahoma; and the Thlopthlocco Tribal Town, Oklahoma, hereafter referred to as ''The Tribes'' may proceed.

The University of Alabama Museums is responsible for notifying The Tribes and the Cherokee Nation; Eastern Band of Cherokee Indians; Mississippi Band of Choctaw Indians; The Chickasaw Nation; The Choctaw Nation of Oklahoma; and the United Keetoowah Band of Cherokee Indians in Oklahoma that this correction notice has been published.

Dated: February 25, 2019.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2019–05994 Filed 3–27–19; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0027385; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: Tennessee Department of Environment and Conservation, Division of Archaeology, Nashville, TN

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The Tennessee Department of Environment and Conservation, Division of Archaeology, has completed an inventory of human remains and associated funerary objects in consultation with the appropriate Indian tribes or Native Hawaiian organizations and has determined that there is a cultural affiliation between the human remains and present-day Indian Tribes or Native Hawaiian organizations. Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request to the Tennessee Department of Environment and Conservation, Division of Archaeology. If no additional requestors come forward, transfer of control of the human remains to the lineal descendants, Indian Tribes, or Native Hawaiian organizations stated in this notice may proceed.

DATES: Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to the Tennessee Department of Environment and Conservation, Division of Archaeology at the address in this notice by April 29, 2019.

ADDRESSES: Tennessee Department of Environment and Conservation, Division of Archaeology, Michael C. Moore, 1216 Foster Avenue, Cole Bldg 3, Nashville, TN 37243, telephone (615) 687–4776, email *mike.c.moore@tn.gov.*

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and associated funerary objects under the control of the Tennessee Department of Environment and Conservation, Division of Archaeology, Nashville, TN. The human remains and associated funerary objects were removed from Chattanooga, Hamilton County, TN.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations in this notice.

Consultation

A detailed assessment of the human remains was made by the Tennessee Department of Environment and Conservation, Division of Archaeology professional staff in consultation with representatives of The Muscogee (Creek) Nation.

History and Description of the Remains

Between April and July 2007, human remains representing, at minimum, 189 individuals were removed from privately-owned property, the David Davis Farm site 40HA301, Chattanooga, Hamilton County, TN, during construction related to a privately-funded commercial venture. A local private consultant, Alexander Archaeological Consultants, conducted the removal. The Tennessee Division of Archaeology received the human skeletal remains and associated burial objects in the summer of 2009, and subsequently entered into an agreement with Middle Tennessee State University (MTSU) to prepare a comprehensive human skeletal inventory. The 2,132 associated funerary objects include: 305 projectile points, 12 discoidals, eight scrapers, six bi-pointed blades, six knives, six bifaces, five celts (including one greenstone spatulate celt, one greenstone celt, and two celt blanks), five hammerstones, four abraders, three blades, one drill, one stone pipe, 87 ceramic beads, 10 complete or partial ceramic vessels, four ceramic pipes, one ceramic disc, 1,270 shell beads, 17 shell pins, nine shell masks, eight shell gorgets (most Citico-style rattlesnake), two shell earplugs, two shell ear spools, 51 other worked/unworked shell objects, 68 worked/unworked animal bone objects, seven metal objects (including two beads and one hilt pommel), and 234 lots of assorted minerals (ochre, hematite, galena, and quartz).

Based on the associated funerary objects, the David Davis Farm site represents a late Mississippian/protohistoric occupation with evidence of Spanish contact.

Determinations Made by the Tennessee Department of Environment and Conservation, Division of Archaeology

Officials of the Tennessee Department of Environment and Conservation, Division of Archaeology have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of 189 individuals of Native American ancestry.
- Pursuant to 25 U.S.C. 3001(3)(A), the 2,132 objects described in this notice are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and associated funerary objects and The Muscogee (Creek) Nation.

Additional Requestors and Disposition

Lineal descendants or representatives of any Indian tribe or Native Hawaiian

organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to Michael C. Moore, Tennessee Department of Environment and Conservation, Division of Archaeology, 1216 Foster Avenue, Cole Bldg. 3, Nashville, TN 37243, telephone (615) 687–4776, email *mike.c.moore@tn.gov,* by April 29, 2019. After that date, if no additional requestors have come forward, transfer of control of the human remains and associated funerary objects to The Muscogee (Creek) Nation may proceed.

The Tennessee Department of Environment and Conservation, Division of Archaeology is responsible for notifying The Muscogee (Creek) Nation that this notice has been published.

Dated: February 25, 2019.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2019–05992 Filed 3–27–19; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0027387; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: The American Museum of Natural History, New York, NY; Correction

AGENCY: National Park Service, Interior.

ACTION: Notice; correction.

SUMMARY: The American Museum of Natural History has corrected an inventory of human remains and associated funerary objects published in a Notice of Inventory Completion in the **Federal Register** on September 10, 2018. This notice corrects the number of associated funerary objects. Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request to the American Museum of Natural History. If no additional requestors come forward, transfer of control of the human remains and associated funerary objects to the lineal descendants, Indian Tribes, or Native Hawaiian organizations stated in this notice may proceed.

DATES: Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to the American Museum of Natural History at the address in this notice by April 29, 2019.

ADDRESSES: Nell Murphy, Director of Cultural Resources, American Museum of Natural History, Central Park West at 79th Street, New York, NY 10024, telephone (212) 769–5837, email *nmurphy@amnh.org.*

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the correction of an inventory of human remains and associated funerary objects under the control of the American Museum of Natural History, New York, NY. The human remains and associated funerary object were removed from Brentwood, Williamson County, TN.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations in this notice.

This notice corrects the number of associated funerary objects published in a Notice of Inventory Completion in the **Federal Register** (83 FR 45667–45669, September 10, 2018). An associated funerary object that was included in the inventory was inadvertently omitted from the Notice of Inventory Completion. Transfer of control of the item in this correction notice has not occurred.

Correction

In the **Federal Register** (83 FR 45668, September 10, 2018), column 1, paragraph 7, sentence 4 is corrected by substituting the following sentence:

The one associated funerary object is a ceramic vase.

In the **Federal Register** (83 FR 45668, September 10, 2018), column 2, paragraph 1, sentence 3 is corrected by substituting the following sentence:

Pursuant to 25 U.S.C. 3001(3)(A), the three objects described in this notice are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.

Additional Requestors and Disposition

Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to Nell Murphy, Director of Cultural Resources, American Museum of Natural History, Central Park West at 79th Street, New York, NY 10024, telephone (212) 769–5837, email *nmurphy@amnh.org,* by April 29, 2019. After that date, if no additional requestors have come forward, transfer of control of the human remains and associated funerary objects to the Cherokee Nation; Eastern Band of Cherokee Indians; and the United Keetoowah Band of Cherokee Indians in Oklahoma may proceed.

The American Museum of Natural History is responsible for notifying the Absentee-Shawnee Tribe of Indians of Oklahoma; Alabama-Coushatta Tribe of Texas (previously listed as the Alabama-Coushatta Tribes of Texas); Alabama-Quassarte Tribal Town; Cherokee Nation; Coushatta Tribe of Louisiana; Eastern Band of Cherokee Indians; Eastern Shawnee Tribe of Oklahoma; Kialegee Tribal Town; Poarch Band of Creeks (previously listed as the Poarch Band of Creek Indians of Alabama); Seminole Tribe of Florida (previously listed as the Seminole Tribe of Florida (Dania, Big Cypress, Brighton, Hollywood & Tampa Reservations)); Shawnee Tribe; The Chickasaw Nation; The Muscogee (Creek) Nation; The Seminole Nation of Oklahoma; Thlopthlocco Tribal Town; and the United Keetoowah Band of Cherokee Indians in Oklahoma that this notice has been published.

Dated: February 25, 2019.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2019–06004 Filed 3–27–19; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0027393; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: Pueblo Grande Museum, Phoenix, AZ

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The Pueblo Grande Museum has completed an inventory of human remains and associated funerary objects,

in consultation with the appropriate Indian Tribes or Native Hawaiian organizations, and has determined that there is no cultural affiliation between the human remains and associated funerary objects and any present-day Indian Tribes or Native Hawaiian organizations. Representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request to the Pueblo Grande Museum. If no additional requestors come forward, transfer of control of the human remains and associated funerary objects to the Indian Tribes or Native Hawaiian organizations stated in this notice may proceed.

DATES: Representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to the Pueblo Grande Museum at the address in this notice by April 29, 2019.

ADDRESSES: Lindsey Vogel-Teeter, Pueblo Grande Museum, 4619 E Washington St., Phoenix, AZ 85331, telephone (602) 495–0901, email *lindsey.vogel-teeter@phoenix.gov.*

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and associated funerary object under the control of the Pueblo Grande Museum, Phoenix, AZ. The human remains and associated funerary objects were removed from Gila or Pinal County, AZ.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3) and 43 CFR 10.11(d). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations in this notice.

Consultation

A detailed assessment of the human remains was made by the Pueblo Grande Museum professional staff in consultation with representatives of the Fort McDowell Yavapai Nation, Arizona; Gila River Indian Community of the Gila River Indian Reservation, Arizona; Hopi Tribe of Arizona; Pueblo of Acoma, New Mexico; Salt River Pima-Maricopa Indian Community of the Salt River Reservation, Arizona; Yavapai-Apache Nation of the Camp Verde Reservation, Arizona; Yavapai-Prescott Indian Tribe (previously listed as the Yavapai-Prescott Tribe of the Yavapai Reservation, Arizona); and the Zuni Tribe of the Zuni Reservation, New Mexico.

The following tribes were contacted but did not participate in consultations: Apache Tribe of Oklahoma; Fort Sill Apache Tribe of Oklahoma; Hualapai Indian Tribe of the Hualapai Indian Reservation, Arizona; Jicarilla Apache Nation, New Mexico; Mescalero Apache Tribe of the Mescalero Reservation, New Mexico; San Carlos Apache Tribe of the San Carlos Reservation, Arizona; Tonto Apache Tribe of Arizona; and the White Mountain Apache Tribe of the Fort Apache Reservation, Arizona.

Hereafter, all Tribes listed in this section are referred to as ''The Consulted and Notified Tribes.''

History and Description of the Remains

At an unknown date, human remains representing, at minimum, one individual were removed from a cave in Aravaipa Canyon in Gila or Pinal County, AZ, by Charles Armer. On March 5, 1933, the human remains were transferred to the Arizona Museum, which later became the Phoenix Museum of History. On September 10, 2009, the human remains and associated funerary object were transferred from the Phoenix Museum of History (which closed in 2009) to the Pueblo Grande Museum. The partial human remains belong to a naturally mummified infant between six months and one year of age, and of indeterminant sex. No known individuals were identified. The seven associated funerary objects are a pitch-coated cradleboard made up of two boards, one tump-band, one plaited pillow, one plaited strap, one cordage assortment, and one lot of leather. The shape and coating of the cradleboard and its lack of cotton cloth recall early Apache technologies. The plaited pillow and cordage are not consistent with known Apache technology, but they do appear in other archeological cultures of the central Arizona mountain areas.

Determinations Made by the Pueblo Grande Museum

Officials of the Pueblo Grande Museum have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice are Native American based on osteological analysis and associated funerary objects.
- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of one individual of Native American ancestry.
- Pursuant to 25 U.S.C. 3001(3)(A), the seven objects described in this notice are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- Pursuant to 25 U.S.C. 3001(2), a relationship of shared group identity cannot be reasonably traced between the Native American human remains and associated funerary objects and any present-day Indian Tribe.
- According to final judgments of the Indian Claims Commission or the Court of Federal Claims, the land from which the Native American human remains and associated funerary objects were removed is the aboriginal land of the Apache Tribe of Oklahoma; Fort McDowell Yavapai Nation, Arizona; Fort Sill Apache Tribe of Oklahoma; Gila River Indian Community of the Gila River Indian Reservation, Arizona; Hualapai Indian Tribe of the Hualapai Indian Reservation, Arizona; Jicarilla Apache Nation, New Mexico; Mescalero Apache Tribe of the Mescalero Reservation, New Mexico; Pueblo of Acoma, New Mexico; Salt River Pima-Maricopa Indian Community of the Salt River Reservation, Arizona; San Carlos Apache Tribe of the San Carlos Reservation, Arizona; Tonto Apache Tribe of Arizona; White Mountain Apache Tribe of the Fort Apache Reservation, Arizona; Yavapai-Apache Nation of the Camp Verde Reservation, Arizona; and the Yavapai-Prescott Indian Tribe (previously listed as the Yavapai-Prescott Tribe of the Yavapai Reservation, Arizona), hereafter referred to as ''The Aboriginal Land Tribes''.
- Pursuant to 43 CFR 10.11(c)(1), the disposition of the human remains and associated funerary objects may be to The Aboriginal Land Tribes.

Additional Requestors and Disposition

Representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to request to Lindsey Vogel-Teeter, Pueblo Grande Museum, 4619 E. Washington St., Phoenix, AZ 85331, telephone (602) 495–0901, email *lindsey.vogel-teeter@phoenix.gov,* by April 29, 2019. After that date, if no additional requestors have come forward, transfer of control of the human remains and associated funerary

objects to The Aboriginal Land Tribes may proceed.

The Pueblo Grande Museum is responsible for notifying The Consulted and Notified Tribes and The Aboriginal Land Tribes that this notice has been published.

Dated: February 25, 2019.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2019–05993 Filed 3–27–19; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0027391; PPWOCRADN0–PCU00RP14.R50000]

Notice of Intent To Repatriate Cultural Items: Fowler Museum at University of California Los Angeles, Los Angeles, CA

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The Fowler Museum at University of California Los Angeles (UCLA) in consultation with the appropriate Indian Tribes or Native Hawaiian organizations, has determined that the cultural items listed in this notice meet the definition of unassociated funerary objects. Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to claim these cultural items should submit a written request to the Fowler Museum at UCLA. If no additional claimants come forward, transfer of control of the cultural items to the lineal descendants, Indian Tribes, or Native Hawaiian organizations stated in this notice may proceed.

DATES: Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to claim these cultural items should submit a written request with information in support of the claim to the Fowler Museum at UCLA at the address in this notice by April 29, 2019.

ADDRESSES: Wendy G. Teeter, Ph.D., Fowler Museum at UCLA, Box 951549, Los Angeles, CA 90095–1549, telephone (310) 825–1864, email *wteeter@arts.ucla.edu.*

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3005, of the intent to repatriate cultural items under the control of the Fowler Museum at UCLA, Los Angeles, CA that meet the definition of unassociated funerary objects under 25 U.S.C. 3001.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American cultural items. The National Park Service is not responsible for the determinations in this notice.

History and Description of the Cultural Items

In 1990 and 1991, 631 cultural items were removed from Mar Lado I (CA–SDI–5130, CA–SDI–5133H, and CA–SDI–6014), in San Luis Rey, San Diego County, CA. Excavations as part of the San Luis Rey River Flood Control Project were conducted by INFOTEC Research, Inc. under a permit from the Army Corps of Engineers (COE). The primary site, SDI–5130, dates to La Jollan or Millingstone times. A subdivision of the site, SDI–5133H, contains a historic component dating to A.D. 1870–1890. No cultural items from two other subdivisions, SDI–6014 and SDI–6015, are included in this notice. As COE decided that the archeological materials from Mar Lado I were not under its control, the collections were received by the Fowler Museum in May 1991.

Documentation indicates that 189 funerary objects were collected from two of four burials located during excavations at the primary site (SDI–5130)—Burial 2 (located in 1990) and Burial 5 (located in 1991). The human remains from Burial 2/Feature 103 were reburied in situ. The 13 funerary objects from Burial 2/Feature 103 include one core, six stone flakes, four pieces of faunal bone, one metate, and one metate fragment. The human remains from Burial 5/Feature 114 were removed by Rose Tyson (San Diego Museum of Man) for analysis on May 23, 1991 and were not accessioned at UCLA. [Note: these human remains may, in fact, have been part of Burial 2/Feature 103, which was very disturbed.] The 176 funerary objects from Burial 5/Feature 114 include 92 pieces of debitage, eight stone tools, 73 animal bone fragments, two shell beads, and one shell bead blank.

Documentation indicates that 442 funerary objects were collected from Burial 3/Feature 2 during excavation in 1990 at CA–SDI–5133H, the historic component within the boundaries of SDI–5130. The human remains from Burial 3/Feature 2 were left in situ (per UCLA's documentation, these human remains are ''with Rose Tyson''). The 442 funerary objects include 435 pieces of animal bone, one ceramic sherd, and six ceramic plate fragments.

Determinations Made by the Fowler Museum at University of California Los Angeles

Officials of the Fowler Museum at University of California Los Angeles have determined that:

- Pursuant to 25 U.S.C. 3001(3)(B), the 631 cultural items described above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony and are believed, by a preponderance of the evidence, to have been removed from a specific burial site of a Native American individual.
- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the unassociated funerary objects and the La Jolla Band of Luiseno Indians, California (previously listed as the La Jolla Band of Luiseno Mission Indians of the La Jolla Reservation); Pala Band of Mission Indians (previously listed as the Pala Band of Luiseno Mission Indians of the Pala Reservation, California); Pauma Band of Luiseno Mission Indians of the Pauma & Yuima Reservation, California; Pechanga Band of Luiseno Mission Indians of the Pechanga Reservation, California; Rincon Band of Luiseno Mission Indians of the Rincon Reservation, California; and the Soboba Band of Luiseno Indians, California, hereafter referred to as ''The Tribes.''

Additional Requestors and Disposition

Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to claim these cultural items should submit a written request with information in support of the claim to Wendy G. Teeter, Ph.D., Fowler Museum at UCLA, Box 951549, Los Angeles, CA 90095–1549, telephone (310) 825–1864, email *wteeter@arts.ucla.edu,* by April 29, 2019. After that date, if no additional claimants have come forward, transfer of control of the unassociated funerary objects to The Tribes may proceed.

The Fowler Museum at University of California Los Angeles is responsible for notifying The Tribes that this notice has been published.

Dated: February 25, 2019.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2019–06001 Filed 3–27–19; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0027390; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: Fowler Museum at University of California Los Angeles, Los Angeles, CA

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The Fowler Museum at University of California Los Angeles (UCLA) has completed an inventory of human remains and associated funerary objects, in consultation with the appropriate Indian Tribes or Native Hawaiian organizations, and has determined that there is a cultural affiliation between the human remains and associated funerary objects and present-day Indian Tribes or Native Hawaiian organizations. Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request to the Fowler Museum at UCLA. If no additional requestors come forward, transfer of control of the human remains and associated funerary objects to the lineal descendants, Indian Tribes, or Native Hawaiian organizations stated in this notice may proceed.

DATES: Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to the Fowler Museum at UCLA at the address in this notice by April 29, 2019.

ADDRESSES: Wendy G. Teeter, Ph.D., Fowler Museum at UCLA, Box 951549, Los Angeles, CA 90095–1549, telephone (310) 825–1864, email *wteeter@arts.ucla.edu.*

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and associated funerary objects under the control of the Fowler Museum at UCLA, Los Angeles, CA. The human remains and associated funerary objects were removed from San Luis Obispo County, California.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations in this notice.

Consultation

A detailed assessment of the human remains was made by the Fowler Museum at UCLA professional staff in consultation with representatives of the Santa Ynez Band of Chumash Mission Indians of the Santa Ynez Reservation, California. The Fowler Museum also consulted with the following non-federally recognized Indian groups: Barbareno/Ventureno Band of Mission Indians; Coastal Band of the Chumash Nation; and Northern Chumash Tribe.

History and Description of the Remains and Associated Funerary Objects

In 1958, human remains representing, at minimum, four individuals were removed from site SLO–393, near Arroyo Grande Creek, in San Luis Obispo County, CA. Excavations in preparation for a planned dam were conducted on private land by William Wallace of the University of Southern California at the request of the National Park Service. The site dates to the Late Period (ca. 1670). The human remains consist of one formal burial of a juvenile and fragmentary remains representing three adults. No known individuals were identified. The 208 associated funerary objects include: 23 bone whistles, three bone sweat scrapers, three worked abalone shell fragments, one chert biface, one charmstone, one stone fragment, one steatite plume holder, one bag of soil, 68 asphaltum fragments, 78 olivella shell beads, 17 dentallium shell beads, five stone pebbles, and six unmodified canid phalanges.

In 1958, human remains representing, at minimum, two individuals were removed from site SLO–398, near Arroyo Grande Creek, in San Luis Obispo County, CA. Excavations in preparation for a planned dam were conducted on private land by William Wallace at the request of the National Park Service. The site dates to the Late Period (A.D. 1300–1500). The human remains consist of the formal burial of an adult male and the fragmentary remains of an adult male. No known individuals were identified. The 102 associated funerary objects include: one large limestone worked cobble with pecking, four obsidian points, six obsidian flakes, 89 abalone shell disc beads, and two unmodified small mammal bone fragments.

Between 1959 and 1960, human remains representing, at minimum, 10 individuals were removed from the Alamo Creek site (CA–SLO–298) in San Luis Obispo County, CA. This collection resulted from excavations in preparation for the creation of the Vaquero Reservoir carried out on private land by a University of California Archeological Survey under the direction of Marcia Wire, Jack Smith, and David Pendergast under a permit from the National Park Service and on behalf of the Bureau of Reclamation. The collection was accessioned at UCLA in 1960. The site is identified as Proto-historic. Fragmentary human remains representing ten adults of unknown sex were identified from midden contexts. No known individuals were identified. No associated funerary objects were identified.

Through consultation, the Fowler Museum has determined that all the above described sites lie within the traditional territory of the Chumash. This determination is consistent with ethnographic and historic documentation. The associated funerary objects in this notice are consistent with others that are attributable to groups ancestral to the present-day Chumash people. The material culture of the earlier groups living in the geographical area encompassing these sites is characterized by archeologists as having passed through various stages over the past 10,000 years. Many local archeologists assert that the changes in the material culture reflect evolving ecological adaptations and related changes in social organization of the same populations, and do not represent population displacements or movements. The same range of artifact types and materials were used from the early pre-contact period until historic times. Native consultants explicitly state that population mixing, which did occur on a small scale, would not alter the continuity of the shared group identities of people associated with specific locales. Based on this evidence, shared group identity may reasonably be traced between the earlier group at these sites and present-day Chumash people.

Determinations Made by the Fowler Museum at University of California Los Angeles

Officials of the Fowler Museum at University of California Los Angeles have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of 16

individuals of Native American ancestry.

• Pursuant to 25 U.S.C. 3001(3)(A), the 310 objects described in this notice are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.

• Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and associated funerary objects and the Santa Ynez Band of Chumash Mission Indians of the Santa Ynez Reservation, California.

Additional Requestors and Disposition

Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to Wendy G. Teeter, Ph.D., Fowler Museum at UCLA, Box 951549, Los Angeles, CA 90095–1549, telephone (310) 825–1864, email *wteeter@arts.ucla.edu,* by April 29, 2019. After that date, if no additional requestors have come forward, transfer of control of the human remains and associated funerary objects to the Santa Ynez Band of Chumash Mission Indians of the Santa Ynez Reservation, California may proceed.

The Fowler Museum at the University of California Los Angeles is responsible for notifying the Santa Ynez Band of Chumash Mission Indians of the Santa Ynez Reservation, California that this notice has been published.

Dated: February 25, 2019.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2019–06000 Filed 3–27–19; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0027394; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: The Field Museum of Natural History, Chicago, IL

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The Field Museum has completed an inventory of human remains and associated funerary objects, in consultation with the appropriate Indian Tribes or Native Hawaiian organizations, and has determined that there is no cultural affiliation between the human remains and associated funerary objects and any present-day Indian Tribes or Native Hawaiian organizations. Representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request to the Field Museum. If no additional requestors come forward, transfer of control of the human remains and associated funerary objects to the Indian Tribes or Native Hawaiian organizations stated in this notice may proceed.

DATES: Representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to the Field Museum at the address in this notice by April 29, 2019.

ADDRESSES: Helen Robbins, The Field Museum, 1400 S Lakeshore Drive, Chicago, IL 60605, telephone (312) 655–7317, email *hrobbins@fieldmuseum.org.*

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and associated funerary objects under the control of the Field Museum, Chicago, IL. The human remains and associated funerary objects were removed from Mercer County, NJ.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3) and 43 CFR 10.11(d). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations in this notice.

Consultation

A detailed assessment of the human remains was made by the Field Museum professional staff in consultation with representatives of the Delaware Nation, Oklahoma; Delaware Tribe of Indians; and the Stockbridge Munsee Community, Wisconsin.

History and Description of the Remains

Between 1891 and 1892, the human remains and associated funerary objects in this notice were excavated by Ernest Volk as part of his work for the World's Columbian Exposition. These human remains and associated funerary objects were acquired by the Field Museum (then named the Field Columbian Museum) in October 1893.

In the fall of 1891, human remains representing, at minimum, three individuals were removed from contexts at Lalor Field in Mercer County, NJ. No known individuals were identified. The human remains include a sub-adult (possibly female), an adult female, and an adult (possibly female). The two associated funerary objects are faunal elements.

In the fall of 1891, human remains representing, at minimum, 12 individuals and were removed from contexts at Wright's Field in Mercer County, NJ. No known individuals were identified. The human remains include two adult females, seven adults of unknown sex, one sub-adult of unknown sex, one sub-adult (possibly female), and one adult (possibly female). The 39 associated funerary objects are 20 faunal elements, 11 pottery sherds, one lithic, and seven non-culturally modified objects.

In 1892, human remains representing, at minimum, two individuals were removed from Trench 1 at Rowan Farm in Mercer County, NJ. One of them is an adult of unknown sex represented by fragmentary and partial skeletal remains; the other is represented only by a right femur. No known individuals were identified. No associated funerary objects are present.

Sometime during 1891 or 1892, human remains representing, at minimum, 10 individuals were removed by Volk from unknown sites in the Trenton area of Mercer County, NJ. The human remains include one adult male, six adults of indeterminate sex, and three juveniles of indeterminate sex. No known individuals were identified. The 18 associated funerary objects are two sherds of pottery, two lithic flakes, two lithic objects, one piece of charcoal, one piece of modified sandstone, and 10 non-culturally modified objects.

Determinations Made by the Field Museum

Officials of the Field Museum have determined that:

• Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice are Native American based on the archeological contexts and the collection history.

• Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of 27 individuals of Native American ancestry.

• Pursuant to 25 U.S.C. 3001(3)(A), the 59 objects described in this notice

are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.

• Pursuant to 25 U.S.C. 3001(2), a relationship of shared group identity cannot be reasonably traced between the Native American human remains and associated funerary objects and any present-day Indian Tribe.

• Treaties, Acts of Congress, or Executive Orders, indicate that the land from which the Native American human remains and associated funerary objects were removed is the aboriginal land of the Delaware Nation, Oklahoma; Delaware Tribe of Indians; and the Stockbridge Munsee Community, Wisconsin.

• Pursuant to 43 CFR 10.11(c)(1), the disposition of the human remains and associated funerary objects may be to the Delaware Nation, Oklahoma; Delaware Tribe of Indians; and the Stockbridge Munsee Community, Wisconsin.

Additional Requestors and Disposition

Representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to Helen Robbins, The Field Museum, 1400 S Lakeshore Drive, Chicago, IL 60605, telephone (312) 655–7317, email *hrobbins@fieldmuseum.org,* by April 29, 2019. After that date, if no additional requestors have come forward, transfer of control of the human remains and associated funerary objects to the Delaware Nation, Oklahoma; Delaware Tribe of Indians; and the Stockbridge Munsee Community, Wisconsin may proceed.

The Field Museum is responsible for notifying the Delaware Nation, Oklahoma; Delaware Tribe of Indians; and the Stockbridge Munsee Community, Wisconsin that this notice has been published.

Dated: February 25, 2019.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2019–05996 Filed 3–27–19; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0027395; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: The Field Museum of Natural History, Chicago, IL

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The Field Museum has completed an inventory of human remains and associated funerary objects, in consultation with the appropriate Indian Tribes or Native Hawaiian organizations, and has determined that there is a cultural affiliation between the human remains and associated funerary objects and present-day Indian Tribes or Native Hawaiian organizations. Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request to the Field Museum. If no additional requestors come forward, transfer of control of the human remains and associated funerary objects to the lineal descendants, Indian Tribes, or Native Hawaiian organizations stated in this notice may proceed.

DATES: Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to the Field Museum at the address in this notice by April 29, 2019.

ADDRESSES: Helen Robbins, The Field Museum, 1400 S Lakeshore Drive, Chicago, IL 60605, telephone (312) 655–7317, email *hrobbins@fieldmuseum.org.*

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and associated funerary objects under the control of the Field Museum, Chicago, IL. The human remains and associated funerary objects were removed from Mercer County, NJ.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations in this notice.

Consultation

A detailed assessment of the human remains was made by the Field Museum professional staff in consultation with representatives of the Delaware Nation, Oklahoma; Delaware Tribe of Indians; and the Stockbridge Munsee Community, Wisconsin.

History and Description of the Remains

In 1892, human remains representing, at minimum, three individuals were removed from Trench 11 at Rowan Farm in Mercer County, NJ. The human remains were excavated by Ernest Volk as part of Volk's work for the World's Columbian Exposition. The Field Museum acquired the human remains in October 1893. The individuals removed from Trench 11, Grave 6 include an adult of unknown sex represented by partial cranial and post-cranial elements, as well as one adult of unknown sex represented by fragmentary cranial remains, found together with an individual of unknown age or sex represented only by a temporal bone. No known individuals were identified. The five associated funerary objects, found in Trench 11, Grave 6 are one non-diagnostic pot sherd and four culturally unmodified objects.

The site where these three individuals were found lies adjacent to a later excavation performed by Dorothy Cross. Volk's original excavation notes and the diagnostic stratigraphy of the site produced by Cross allowed for the dating of these individuals to the Late Woodland or historic period. These human remains were determined to be Native American based on their archeological context and collection history. Geographical, kinship, archeological, anthropological, historical, linguistic, and oral traditional evidence shows that the Late Woodland period group at the Rowan Farm site is affiliated with the present-day Delaware Tribes, who are represented by the Delaware Nation, Oklahoma; Delaware Tribe of Indians; and the Stockbridge Munsee Community, Wisconsin.

Determinations Made by the Field Museum

Officials of the Field Museum have determined that:

• Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of three individuals of Native American ancestry.

• Pursuant to 25 U.S.C. 3001(3)(A), the five objects described in this notice are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.

• Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and associated funerary objects and the Delaware Nation, Oklahoma; Delaware Tribe of Indians; and the Stockbridge Munsee Community, Wisconsin.

Additional Requestors and Disposition

Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to Helen Robbins, The Field Museum, 1400 S Lakeshore Drive, Chicago, IL 60605, telephone (312) 655–7317, email *hrobbins@fieldmuseum.org,* by April 29, 2019. After that date, if no additional requestors have come forward, transfer of control of the human remains and associated funerary objects to the Delaware Nation, Oklahoma; Delaware Tribe of Indians; and the Stockbridge Munsee Community, Wisconsin may proceed.

The Field Museum is responsible for notifying the Delaware Nation, Oklahoma; Delaware Tribe of Indians; and the Stockbridge Munsee Community, Wisconsin that this notice has been published.

Dated: February 25, 2019.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2019–05997 Filed 3–27–19; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0027382; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: Oregon State University, NAGPRA Office, Corvallis, OR

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The Oregon State University, NAGPRA Office, has completed an inventory of human remains and associated funerary objects, in consultation with the appropriate Indian Tribes or Native Hawaiian organizations, and has determined that there is a cultural affiliation between the human remains and associated funerary objects and present-day Indian Tribes or Native Hawaiian organizations. Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request to the Oregon State University NAGPRA Office. If no additional requestors come forward, transfer of control of the human remains and associated funerary objects to the lineal descendants, Indian Tribes, or Native Hawaiian organizations stated in this notice may proceed.

DATES: Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to the Oregon State University, NAGPRA Office at the address in this notice by April 29, 2019.

ADDRESSES: Dawn Marie Alapisco, Oregon State University, NAGPRA Office, 106 Gilkey Hall, Corvallis, OR 97331 telephone (541) 737–4075, email *dawnmarie.alapisco@oregonstate.edu.*

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and associated funerary objects under the control of the Oregon State University, NAGPRA Office. The human remains and associated funerary objects were removed from site 35LNC50, Lincoln County, OR; an unknown location along the Oregon Coast; and Yaquina Bay, Lincoln County, OR.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations in this notice.

Consultation

A detailed assessment of the human remains was made by the Oregon State University, Department of Anthropology professional staff in consultation with representatives of the Confederated Tribes of Siletz Indians of Oregon (previously listed as the Confederated Tribes of the Siletz Reservation). The Burns Paiute Tribe (previously listed as the Burns Paiute Tribe of the Burns Paiute Indian Colony of Oregon); Confederated Tribes of the Coos, Lower Umpqua and Siuslaw Indians; Confederated Tribes of the Grand Ronde Community of Oregon; Confederated Tribes of the Umatilla Indian Reservation (previously listed as the Confederated Tribes of the Umatilla Reservation, Oregon); Confederated Tribes of the Warm Springs Reservation of Oregon; Coquille Indian Tribe (previously listed as the Coquille Tribe of Oregon); Cow Creek Band of Umpqua Indians (previously listed as the Cow Creek Band of Umpqua Indians of Oregon); and Klamath Tribes were invited to consult but did not participate. Hereafter, all of the above Indian Tribes are referred to as ''The Consulted and Notified Tribes.''

History and Description of the Remains

At an unknown date, possibly in 1980, human remains representing, at minimum, one individual were removed from site 35LNC50, on the north side of Yaquina Head in Lincoln County, OR. Sometime after 2004, these human remains, together with one object, were found in a bag along with a note reading ''from 35LNC50.'' As Dr. Richard E. Ross and Sandra L. Snyder, both associated with the Department of Anthropology at Oregon State University (OSU), excavated 35LNC50 in 1980, it is believed that these human remains are from that excavation. No known individuals were identified. The one associated funerary object is a lithic flake.

The Confederated Tribes of the Siletz Reservation, Oregon, are a confederation of 30 bands whose ancestral territory ranged along the entire Oregon coast and Coast Range, inland to the main divide of the Cascade Range, and southward to the Rogue River watershed and included site 35LNC50.

In July 1974, human remains representing, at minimum, one individual were removed from ''Tom Creek,'' possibly located somewhere on the Oregon Coast according to documentation accompanying the human remains. No known individuals were identified. No associated funerary objects are present.

In 1957, human remains representing, at minimum, two individuals were removed from the south shore of Yaquina Bay in Lincoln County, OR. An OSU professor walking on the south shore of Yaquina Bay found the human remains and took them home. In March of 1994 he gave the human remains to the Department of Anthropology at

OSU. No known individuals were identified. The one associated funerary object is a faunal talus bone.

Determinations Made by Oregon State University, NAGPRA Office

Officials of Oregon State University, NAGPRA Office have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of four individuals of Native American ancestry.
- Pursuant to 25 U.S.C. 3001(3)(A), the two objects described in this notice are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and the Confederated Tribes of Siletz Indians of Oregon (previously listed as the Confederated Tribes of the Siletz Reservation).

Additional Requestors and Disposition

Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to Dawn Marie Alapisco, Oregon State University, NAGPRA Office, 106 Gilkey Hall, Corvallis, OR 97331 telephone (541) 737–4075, email *dawnmarie.alapisco@oregonstate.edu,* by April 29, 2019. After that date, if no additional requestors have come forward, transfer of control of the human remains and associated funerary objects to the Confederated Tribes of Siletz Indians of Oregon (previously listed as the Confederated Tribes of the Siletz Reservation) may proceed.

Oregon State University, NAGPRA Office is responsible for notifying The Consulted and Notified Tribes that this notice has been published.

Dated: February 25, 2019.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2019–05991 Filed 3–27–19; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

Office of Natural Resources Revenue

[Docket No. ONRR–2011–0020; DS63644000 DR2000000.CH7000 190D1113RT; OMB Control Number 1012–0004]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Royalty and Production Reporting

AGENCY: Office of the Secretary, Office of Natural Resources Revenue, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Office of Natural Resources Revenue (ONRR) is proposing to renew an information collection with revisions. ONRR seeks renewed authority to collect information by which lessees use three forms necessary to report the production and royalties on minerals produced from Federal and Indian lands and the Outer Continental Shelf (OCS).

DATES: Interested persons are invited to submit written comments on or before April 29, 2019.

ADDRESSES: Send written comments on this information collection request (ICR) to the Office of Management and Budget's Desk Officer for the Department of the Interior by email to *OIRA_Submission@omb.eop.gov;* or by facsimile to (202) 395–5806. Please provide a copy of your comments to Mr. Armand Southall, Regulatory Specialist, ONRR, P.O. Box 25165, MS 64400B, Denver, Colorado 80225–0165; or by email to *Armand.Southall@onrr.gov.* Please reference ''OMB Control Number 1012–0004'' in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: Ms. Lee-Ann Martin at (303) 231–3313, or email to *LeeAnn.Martin@onrr.gov.* You may also view the ICR at *http://www.reginfo.gov/public/do/PRAMain.*

SUPPLEMENTARY INFORMATION: In accordance with the Paperwork Reduction Act of 1995, we provide the general public and other Federal agencies with an opportunity to comment on new, proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps that the public understand our information collection requirements and provide the requested data in the desired format.

We published a notice, with a 60-day public comment period soliciting comments on this collection of information, in the **Federal Register** on August 31, 2018 (83 FR 44662). During the 60-day period, we specifically reached out to seven companies impacted by this information collection renewal (ICR) to request input. In response to the outreach, we received seven responsive comments.

The first comment that we received stated the following:

''*I've looked at the FRN material and the amount of time in the document is pretty accurate with the amount of time it takes me to submit my monthly OGORS and PASRs.*

648 lines submit monthly
7,776 lines submit yearly
25% lines require manual intervention
3 minutes:
1,944 lines done manually
5,832 minutes per year on manual lines
97.2 hours per year on manual lines''

The second comment that we received stated the following:

''*I have read the attached FRN 44662 and have no comments at this time.*''

The third comment that we received stated the following:

''*Hope all is well. I reviewed the FRN and I currently have no questions.*''

The fourth comment that we received stated the following:

''*[We] reviewed the highlighted (pink) paragraphs and we agree that we are currently submitting Form 4054 Oil and Gas Operations Report and Form 4058 Production Allocation Schedule Report. We have no problems submitting these reports each month to ONRR. Let me know if you need anything else.*''

The fifth comment that we received stated the following:

''*Because of the size of our reporting, we spend more time on both OGORs and 2014 reporting and I entered the estimated burden hours and sent it back. I don't have no other comments or questions at this time.*''

The sixth comment that we received stated the following:

''*I have surveyed the royalty reporting group and the only comments offered is listed below.*''

Suggested improvement for the Data Warehouse.

The analysts would like to be able to have Product Code as one of the selection criteria on the first screen of the 'Basic Royalty Report'.

No comments related to the 2014 royalty reports.''

The seventh comment that we received stated the following:

''*Thank you for reaching out to us. We have no additional updates/comments that we see fit to be made at this time.*''

Once again, we are soliciting comments on this proposed ICR that is

described below. We are especially interested in public comment addressing the following issues: (1) Is the collection necessary to the proper functions of ONRR; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might ONRR enhance the quality, usefulness, and clarity of the information collected; and (5) how might ONRR minimize the burden of this collection on the respondents, including through the use of information technology.

Comments that you submit in response to this notice are a matter of public record. Before including your Personally Identifiable Information (PII), such as your address, phone number, email address, or other personal identifying information in your comment(s), you should be aware that your entire comment, including PII, may be made available to the public at any time. While you can ask us, in your comment, to withhold your PII from public view, we cannot guarantee that we will be able to do so.

Abstract: The Secretary of the United States Department of the Interior is responsible for collecting royalties from lessees who produce minerals from Federal and Indian lands and the OCS. Under various laws, the Secretary's responsibility is to manage mineral resources production on Federal and Indian lands and the OCS, collect the royalties and other mineral revenues due, and distribute the funds collected.

The Secretary also has trust responsibility to manage Indian lands and seek advice and information from Indian beneficiaries. ONRR performs the minerals revenue management functions for the Secretary and assists the Secretary in carrying out the Department's trust responsibility for Indian lands.

When a company or an individual enters into a lease to explore, develop, produce, and sell or otherwise dispose of minerals from Federal or Indian lands, that company or individual agrees to pay the lessor a share in an amount or value of production from the leased lands. The lessee, or its designee, must report various kinds of information to the lessor relative to the disposition of the leased minerals. Such information is generally available within the records of the lessee or others involved in developing, transporting, processing, purchasing, or selling such minerals. The information that ONRR collects includes data necessary to ensure that the lessee accurately values and appropriately pays all royalties and other mineral revenues due.

Public laws pertaining to mineral leases on Federal and Indian lands and the OCS are available at *http://www.onrr.gov/Laws_R_D/PubLaws/index.htm*. Information collections that we cover in this ICR are found at title 30 of the *Code of Federal Regulations* (CFR) part 1210, subparts B, C, and D, which pertain to reporting oil, gas, and geothermal resources royalties and oil and gas production; and part 1212, subpart B, which pertains to recordkeeping.

Reporters submit information into the ONRR financial accounting system that includes royalty, rental, bonus, and other payment information; sales volumes and values; and other royalty values. ONRR uses the financial accounting system to compare production volumes with royalty volumes to verify that companies reported and paid proper royalties for the minerals produced. Additionally, we share the data electronically with the Bureau of Safety and Environmental Enforcement, Bureau of Ocean Energy Management, Bureau of Land Management, Bureau of Indian Affairs, and Tribal and State governments so that they can perform their land and lease management responsibilities.

We use the information collected in this ICR to ensure that companies properly pay royalties based on accurate production accounting on oil, gas, and geothermal resources that they produce from Federal and Indian leases. Production data is also used to determine whether a lease is producing in paying quantities and therefore has not expired, and to track total production from Federal and Indian lands by lease, communitization agreement, unit, field or area, State, reservation, and nationally. The requirement to report accurately and timely is mandatory. Please refer to the chart for all reporting requirements and associated burden hours.

Royalty Reporting

Payors (Reporters) must report, according to various regulations, and remit royalties on oil, gas, and geothermal resources that they produced from leases on Federal and Indian lands. The reporters use the following form for royalty reporting:

Form ONRR–2014, Report of Sales and Royalty Remittance. Reporters submit this form monthly to report royalties on oil, gas, and geothermal leases, certain rents, and other lease-related transactions (for example, transportation and processing allowances, lease adjustments, and quality and location differentials). On a royalty report, reporters submit a line of data for each type of product produced from each Federal or Indian property. Each line contains the royalty owed and the basic elements necessary to calculate the royalty. For example, each line of a royalty report will include the volume produced from the lease, the value of that production, and any allowances claimed by the reporter which reduced the royalty owed.

Production Reporting

Operators (Reporters) must submit, according to various regulations, production reports to the ONRR financial accounting system if they operate a Federal or Indian onshore or offshore oil and gas lease or federally approved unit or communitization agreement. ONRR uses the financial accounting system to track minerals produced from Federal and Indian lands, from the point of production to the point of disposition or royalty determination and/or point of sale. The reporters use the following forms for production accounting and reporting:

Form ONRR–4054, Oil and Gas Operations Report (OGOR). Reporters submit this form monthly for all production reporting for the Outer Continental Shelf, onshore Federal, and Indian leases. On part A of the OGOR production report, reporters submit a line of data indicating the volumes produced from each Federal or Indian well. On part B, reporters submit a line of data for each commodity, indicating the disposition of the volumes. On part C, reporters submit a line of data for each Federal or Indian property indicating any change in the volume of the inventory remaining on the property. ONRR compares the production information with the sales and royalty data that reporters submit on form ONRR–2014 to ensure that the reporters paid and reported the proper royalties on the oil and gas production reported to ONRR. ONRR uses the information from OGOR parts A, B, and C to track all oil and gas from the point of production to the point of first sale or other disposition. Other Federal government agencies use the monthly data to monitor and inspect lease operations.

Form ONRR–4058, Production Allocation Schedule Report (PASR). Reporters submit this form monthly to provide allocation information for Federal offshore production. This reporting is required when a facility operator manages a measurement point where they commingle the production from an offshore Federal lease or metering point with production from other sources (such as State lease production) before the production is

measured for a royalty determination. On each PASR, the reporter submits a line of data containing the volume of commingled oil or gas. ONRR uses the data to determine if the payors reported accurate sales volumes on the OGOR. Reporters also use the PASR to corroborate data reflected on the OGOR that the OCS lease operators submit.

OMB Approval

We are requesting OMB's approval to continue to collect this information. Not collecting this information would limit the Secretary's ability to discharge fiduciary duties and may also result in the loss of royalty payments. ONRR protects the proprietary information that it receives, and does not collect items of a sensitive nature. It is mandatory that the reporters submit forms ONRR–2014, ONRR–4054, and ONRR–4058.

Data

Title of Collection: Royalty and Production Reporting, 30 CFR parts 1210 and 1212.

OMB Control Number: 1012–0004.

Form Numbers: ONRR–2014, ONRR–4054, and ONRR–4058.

Type of Review: Revision of a currently approved collection.

Respondents/Affected Public: Businesses.

Total Estimated Number of Annual Respondents: 3,870 oil, gas, and geothermal reporters.

Total Estimated Number of Annual Responses: 12,873,046 lines of data.

Estimated Completion Time per Response: Varies between 1 and 7 minutes per line, depending on the activity. The average completion time is 1.96 minutes per line. The average completion time is calculated by first multiplying the estimated annual burden hours from the table below (420,241) by 60 to obtain the total annual burden minutes. Then the total annual burden minutes (25,214,460) divided by the estimated annual number of data lines submitted from the table below (12,873,046) equals the average completion time.

Total Estimated Number of Annual Burden Hours: 420,241 hours.

Respondent's Obligation: Mandatory.

Frequency of Collection: Monthly.

Total Estimated Annual Non-hour Burden Cost: We have identified no ''non-hour cost'' burden associated with this collection of information.

We have not included in our estimates certain requirements that companies perform in the normal course of business that ONRR considers usual and customary. We display the estimated annual burden hours by CFR section and paragraph in the following chart.

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Respondents' Estimated Annual Burden Hours

Title 30 CFR	Reporting and Recordkeeping Requirement	Hour Burden	Average Number of Annual Responses (lines of data)	Annual Burden Hours
30 CFR Part 1210—FORMS AND REPORTS				
Subpart B—Royalty Reports—Oil, Gas, and Geothermal Resources				
1210.52 (a) and (b)	**1210.52 What royalty reports must I submit?** You must submit a completed form ONRR–2014, Report of Sales and Royalty Remittance, to ONRR with: (a) All royalty payments; and (b) Rents on nonproducing leases, where specified in the lease.	***Form ONRR-2014***		
		Electronic* (approximately 99.97 percent)		
		3 min. per line	6,160,687	308,034
		Manual* (approximately 0.03 percent)		
1210.53 (a), (b), and (c)	**1210.53 When are my royalty reports and payments due?** (a) Completed forms ONRR–2014 for royalty payments and the associated payments are due by the end of the month following the production month (see also § 1218.50 of this chapter). (b) Completed forms ONRR–2014 for rental payments, where applicable, and the associated payments are due as specified by the lease terms (see also § 1218.50 of this chapter). (c) You may submit reports and payments early.	7 min. per line	1,702	199
1210.54 (a), (b), and (c)	**1210.54 Must I submit this royalty report electronically?** (a) You must submit form ONRR–2014 electronically unless you qualify for an exception under § 1210.55(a). (b) As of December 31, 2011, all reporters/payors must report to ONRR electronically via the eCommerce Reporting Web site. All reporters/payors also must report royalty data directly or upload files using the ONRR electronic web form located at *https://onrrreporting.onrr.gov* * * * (c) Refer to our electronic reporting guidelines in the ONRR Minerals Revenue Reporter Handbook, for the most current reporting options, instructions, and security measures. The handbook may be found on our Internet Web site or you may call your ONRR			

Title 30 CFR	Reporting and Recordkeeping Requirement	Hour Burden	Average Number of Annual Responses (lines of data)	Annual Burden Hours
	customer service representative * * * * * * * *			
		SUBTOTAL FOR ROYALTY REPORTING	**6,162,389**	**308,233**
	Subpart C—Production Reports—Oil and Gas			
1210.102 (a)(1)(i) and (ii) 1210.102 (a)(2)(i) and (ii)	**1210.102 What production reports must I submit?** (a) Form ONRR–4054, Oil and Gas Operations Report. If you operate a Federal or Indian onshore or OCS oil and gas lease or federally approved unit or communitization agreement that contains one or more wells that are not permanently plugged or abandoned, you must submit form ONRR–4054 to ONRR: (1) You must submit form ONRR–4054 for each well for each calendar month, beginning with the month in which you complete drilling, unless: (i) You have only test production from a drilling well; or (ii) The ONRR tells you in writing to report differently. (2) You must continue reporting until: (i) The Bureau of Land Management (BLM) and [Bureau of Safety and Environmental Enforcement] approves all wells as permanently plugged or abandoned or the lease or unit or communitization agreement is terminated; and (ii) You dispose of all inventory.	Burden hours covered under § 1210.104(a) and (b).		

Title 30 CFR	Reporting and Recordkeeping Requirement	Hour Burden	Average Number of Annual Responses (lines of data)	Annual Burden Hours
1210.102 (b)(1) 1210.102 (b)(2)(i)-(vi)	(b) Form ONRR–4058, Production Allocation Schedule Report. If you operate an offshore facility measurement point (FMP) handling production from a Federal oil and gas lease or federally approved unit agreement that is commingled (with approval) with production from any other source prior to measurement for royalty determination, you must file form ONRR–4058. (1) You must submit form ONRR–4058 for each calendar month beginning with the month in which you first handle production covered by this section. (2) Form ONRR–4058 is not required whenever all of the following conditions are met: (i) All leases involved are Federal leases; (ii) All leases have the same fixed royalty rate; (iii) All leases are operated by the same operator; (iv) The facility measurement device is operated by the same person as the leases/agreements; (v) Production has not been previously measured for royalty determination; and (vi) The production is not subsequently commingled and measured for royalty determination at an FMP for which form ONRR–4058 is required under this part.	Burden hours covered under § 1210.104(a) and (b).		
1210.103 (a) and (b)	**1210.103 When are my production reports due?** (a) The ONRR must receive your completed forms ONRR–4054 and ONRR–4058 by the 15th day of the second month following the month for which you are reporting. (b) A report is considered received when it is delivered to ONRR by 4 p.m. mountain time at the addresses specified in § 1210.105. Reports received after 4 p.m. mountain time are considered received the following business day.	Burden hours covered under § 1210.104(a) and (b).		

Title 30 CFR	Reporting and Recordkeeping Requirement	Hour Burden	Average Number of Annual Responses (lines of data)	Annual Burden Hours
1210.104 (a), (b), and (c)	**1210.104 Must I submit these production reports electronically?** (a) You must submit forms ONRR–4054 and ONRR–4058 electronically unless you qualify for an exception under § 1210.105. (b) As of December 31, 2011, all reporters/payors must report to ONRR electronically via the eCommerce Reporting Web site. All reporters/payors also must report production data directly or upload files using the ONRR electronic web form located at *https://onrrreporting.onrr.gov* * * * (c) Refer to our electronic reporting guidelines in the ONRR *Minerals Production Reporter Handbook*, for the most current reporting options, instructions, and security measures. The handbook may be found on our Internet Web site or you may call your ONRR customer service representative * * *	**Form ONRR-4054 (OGOR)**		
		Electronic* (approximately 99.93 percent)		
		1 min. per line	6,699,134	111,652
		Manual* (approximately 0.07 percent)		
		3 min. per line	4,911	246
		TOTAL OGOR	**6,704,045**	**111,898**
		Form ONRR-4058 (PASR)		
		Electronic* (approximately 99.94 percent)		
		1 min. per line	6,608	110
		Manual* (approximately 0.06 percent)		
		3 min. per line	4	0
		TOTAL PASR	**6,612**	**110**
	SUBTOTAL FOR PRODUCTION REPORTING		**6,710,657**	**112,008**
PART 1212—RECORDS AND FILES MAINTENANCE				
Subpart B—Oil, Gas and OCS Sulphur—General				
1212.50	**1212.50 Required recordkeeping and reports.** All records pertaining to offshore and onshore Federal and Indian oil and gas leases shall be maintained by a lessee, operator, revenue payor, or other person for 6 years after the records are generated unless the recordholder is notified, in writing, that records must be maintained for a longer period * * *. **[In accordance with 30 U.S.C. 1724(f), Federal oil and gas records must be maintained for 7 years from the date the obligation became due.]**	Burden hours covered under §§ 1210.54(a), (b), and (c); and 1210.104(a) and (b).		

Title 30 CFR	Reporting and Recordkeeping Requirement	Hour Burden	Average Number of Annual Responses (lines of data)	Annual Burden Hours
1212.51 (a) and (b)	(a) *Records.* Each lessee, operator, revenue payor, or other person shall make and retain accurate and complete records necessary to demonstrate that payments of rentals, royalties, net profit shares, and other payments related to offshore and onshore Federal and Indian oil and gas leases are in compliance with lease terms, regulations, and orders * * *. (b) Period for keeping records. Lessees, operators, revenue payors, or other persons required to keep records under this section shall maintain and preserve them for 6 years from the day on which the relevant transaction recorded occurred unless the Secretary notifies the record holder of an audit or investigation involving the records and that they must be maintained for a longer period * * *. **[In accordance with 30 U.S.C. 1724(f), Federal oil and gas records must be maintained for 7 years from the date the obligation became due.]**	Burden hours covered under §§ 1210.54(a), (b), and (c); and 1210.104(a) and (b).		
TOTAL FOR ROYALTY AND PRODUCTION REPORTING			**12,873,046**	**420,241**

* ***Note:*** *ONRR considers each line of data as one response/report.*

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Authority: Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq*).

Gregory J. Gould,

Director for Office of Natural Resources Revenue.

[FR Doc. 2019–05927 Filed 3–27–19; 8:45 am]

BILLING CODE 4335–30–C

INTERNATIONAL TRADE COMMISSION

[USITC SE–19–007]

Government in the Sunshine Act Meeting Notice

AGENCY HOLDING THE MEETING: United States International Trade Commission.

TIME AND DATE: April 2, 2019 at 11:00 a.m.

PLACE: Room 101, 500 E Street SW, Washington, DC 20436, Telephone: (202) 205–2000.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. *Agendas for future meetings:* None.
2. Minutes.
3. Ratification List.
4. Vote on Inv. Nos. 701–TA–595–596 and 731–TA–1401, 1403, and 1405–1406 (Final) (Large Diameter Welded Pipe from Canada, Greece, Korea, and Turkey). The Commission is currently scheduled to complete and file its determinations and views of the Commission by April 15, 2019.
5. *Outstanding action jackets:* None.

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

By order of the Commission.

Issued: March 25, 2019.

William Bishop,

Supervisory Hearings and Information Officer.

[FR Doc. 2019–06053 Filed 3–26–19; 11:15 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[USITC SE–19–008]

Government in the Sunshine Act Meeting Notice

AGENCY HOLDING THE MEETING: United States International Trade Commission.

TIME AND DATE: April 4, 2019 at 9:30 a.m.

PLACE: Room 101, 500 E Street SW, Washington, DC 20436, Telephone: (202) 205–2000.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. *Agendas for future meetings:* None.
2. Minutes.

3. Ratification List.

4. Vote on Inv. Nos. 731–TA–1435–1440 (Preliminary) (Acetone from Belgium, Korea, Saudi Arabia, Singapore, South Africa, and Spain). The Commission is currently scheduled to complete and file its determinations on April 5, 2019; views of the Commission are currently scheduled to be completed and filed on April 12, 2019.

5. *Outstanding action jackets:* None.

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

By order of the Commission.

Issued: March 25, 2019.

William Bishop,

Supervisory Hearings and Information Officer.

[FR Doc. 2019–06051 Filed 3–26–19; 11:15 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[USITC SE–19–009]

Government in the Sunshine Act Meeting Notice

AGENCY HOLDING THE MEETING: United States International Trade Commission.

TIME AND DATE: April 5, 2019 at 11:00 a.m.

PLACE: Room 101, 500 E Street SW, Washington, DC 20436, Telephone: (202) 205–2000.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. *Agendas for future meetings:* None.

2. Minutes.

3. Ratification List.

4. Vote on Inv. Nos. 701–TA–618–619 and 731–TA–1441–1444 (Preliminary) (Carbon and Alloy Steel Threaded Rod from China, India, Taiwan, and Thailand). The Commission is currently scheduled to complete and file its determinations on April 8, 2019; views of the Commission are currently scheduled to be completed and filed on April 15, 2019.

5. *Outstanding action jackets:* None.

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

By order of the Commission.

Issued: March 25, 2019.

William Bishop,

Supervisory Hearings and Information Officer.

[FR Doc. 2019–06052 Filed 3–26–19; 11:15 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–608 and 731–TA–1420 (Final)]

Steel Racks From China; Scheduling of the Final Phase of Countervailing Duty and Antidumping Duty Investigations

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice of the scheduling of the final phase of antidumping and countervailing duty investigation Nos. 701–TA–608 and 731–TA–1420 (Final) pursuant to the Tariff Act of 1930 (''the Act'') to determine whether an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of steel racks from China, provided for in subheadings 7326.90.8688, 9403.20.0080, 9403.90.8041, 7308.90.3000, 7308.90.6000, 7308.90.9590, and 9403.20.0090 of the Harmonized Tariff Schedule of the United States, preliminarily determined by the Department of Commerce (''Commerce'') to be subsidized and sold at less-than-fair-value.

DATES: March 4, 2019.

FOR FURTHER INFORMATION CONTACT: Stamen Borisson ((202) 205–3125), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000.

General information concerning the Commission may also be obtained by accessing its internet server (*https://www.usitc.gov*). The public record for these investigations may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Scope.—For purposes of these investigations, Commerce has defined the subject merchandise as ''steel racks and parts thereof, assembled, to any extent, or unassembled, including but not limited to, vertical components (*e.g.,* uprights, posts, or columns), horizontal or diagonal components (*e.g.,* arms or beams), braces, frames, locking devices (*e.g.,* end plates and beam connectors), and accessories (including, but not limited to, rails, skid channels, skid rails, drum/coil beds, fork clearance bars, pallet supports, row spacers, and wall ties).

Subject steel racks and parts thereof are made of steel, including, but not limited to, cold and/or hot-formed steel, regardless of the type of steel used to produce the components and may, or may not, include locking tabs, slots, or bolted, clamped, or welded connections. Subject steel racks have the following physical characteristics:

(1) Each steel vertical and horizontal load bearing member (*e.g.,* arms, beams, posts, and columns) is composed of steel that is at least 0.044 inches thick;

(2) Each steel vertical and horizontal load bearing member (*e.g.,* arms, beams, posts, and columns) is composed of steel that has a yield strength equal to or greater than 36,000 pounds per square inch;

(3) The width of each steel vertical load bearing member (*e.g.,* posts and columns) exceeds two inches; and

(4) The overall depth of each steel roll-formed horizontal load bearing member (*e.g.,* beams) exceeds two inches.

In the case of steel horizontal load bearing members other than roll-formed (*e.g.,* structural beams, Z-beams, or cantilever arms), only the criteria in subparagraphs (1) and (2) apply to these horizontal load bearing members. The depth limitation in subparagraph (4) does not apply to steel horizontal load bearing members that are not roll-formed.

Steel rack components can be assembled into structures of various dimensions and configurations by welding, bolting, clipping, or with the use of devices such as clips, end plates, and beam connectors, including, but not limited to the following configurations: (1) Racks with upright frames perpendicular to the aisles that are independently adjustable, with positive-locking beams parallel to the aisle spanning the upright frames with braces; and (2) cantilever racks with vertical components parallel to the aisle and cantilever beams or arms connected to the vertical components perpendicular to the aisle. Steel racks may be referred to as pallet racks, storage racks, stacker racks, retail racks, pick modules, selective racks, or

cantilever racks and may incorporate moving components and be referred to as pallet-flow racks, carton-flow racks, push-back racks, movable-shelf racks, drive-in racks, and drive-through racks. While steel racks may be made to ANSI MH16.l or ANSI MH16.3 standards, all steel racks and parts thereof meeting the description set out herein are covered by the scope of these investigations, whether or not produced according to a particular standard.

The scope includes all steel racks and parts thereof meeting the description above, regardless of

(1) other dimensions, weight, or load rating;

(2) vertical components or frame type (including structural, roll-form, or other);

(3) horizontal support or beam/brace type (including but not limited to structural, roll-form, slotted, unslotted, Z-beam, C-beam, L-beam, step beam, and cantilever beam);

(4) number of supports;

(5) number of levels;

(6) surface coating, if any (including but not limited to paint, epoxy, powder coating, zinc, or other metallic coatings);

(7) rack shape (including but not limited to rectangular, square, corner, and cantilever);

(8) the method by which the vertical and horizontal supports connect (including but not limited to locking tabs or slots, bolting, clamping, and welding); and

(9) whether or not the steel rack has moving components (including but not limited to rails, wheels, rollers, tracks, channels, carts, and conveyors).

Subject merchandise includes merchandise matching the above description that has been finished or packaged in a third country. Finishing includes, but is not limited to, coating, painting, or assembly, including attaching the merchandise to another product, or any other finishing or assembly operation that would not remove the merchandise from the scope of these investigations if performed in the country of manufacture of the steel racks and parts thereof. Packaging includes packaging the merchandise with or without another product or any other packaging operation that would not remove the merchandise from the scope of these investigations if performed in the country of manufacture of the steel racks and parts thereof.

Steel racks and parts thereof are included in the scope of these investigations whether or not imported attached to, or included with, other parts or accessories such as wire decking, nuts, and bolts. If steel racks and parts thereof are imported attached to, or included with, such non-subject merchandise, only the steel racks and parts thereof are included in the scope.

The scope of these investigations does not cover: (1) Decks, *i.e.,* shelving that sits on or fits into the horizontal supports to provide the horizontal storage surface of the steel racks; (2) wire shelving units, *i.e.,* units made from wire that incorporate both a wire deck and wire horizontal supports (taking the place of the horizontal beams and braces) into a single piece with tubular collars that slide over the posts and onto plastic sleeves snapped on the posts to create a finished unit; (3) pins, nuts, bolts, washers, and clips used as connecting devices; and (4) non-steel components.

Specifically excluded from the scope of these investigations are any products covered by Commerce's existing antidumping and countervailing duty orders on boltless steel shelving units prepackaged for sale from the People's Republic of China. See Boltless Steel Shelving Units Prepackaged for Sale From the People's Republic of China: Antidumping Duty Order, 80 FR 63,741 (October 21, 2017); Boltless Steel Shelving Units Prepackaged for Sale From the People's Republic of China: Amended Final Affirmative Countervailing Duty Determination and Countervailing Duty Order, 80 FR 63,745 (October 21, 2017).

Also excluded from the scope of these investigations are bulk-packed parts or components of boltless steel shelving units that were specifically excluded from the scope of the Boltless Steel Shelving Orders because such bulk-packed parts or components do not contain the steel vertical supports (*i.e.,* uprights and posts) and steel horizontal supports (*i.e.,* beams, braces) packaged together for assembly into a completed boltless steel shelving unit.

Such excluded components of boltless steel shelving are defined as:

(1) Boltless horizontal supports (beams, braces) that have each of the following characteristics: (a) A length of 95 inches or less, (b) made from steel that has a thickness of 0.068 inches or less, and (c) a weight capacity that does not exceed 2500 lbs per pair of beams for beams that are 78″ or shorter, a weight capacity that does not exceed 2200 lbs per pair of beams for beams that are over 78″ long but not longer than 90″, and/or a weight capacity that does not exceed 1800 lbs per pair of beams for beams that are longer than 90″;

(2) shelf supports that mate with the aforementioned horizontal supports; and

(3) boltless vertical supports (upright welded frames and posts) that have each of the following characteristics: (a) A length of 95 inches or less, (b) with no face that exceeds 2.90 inches wide, and (c) made from steel that has a thickness of 0.065 inches or less.

Excluded from the scope of these investigations are: (1) Wall-mounted shelving and racks, defined as shelving and racks that suspend all of the load from the wall, and do not stand on, or transfer load to, the floor; (2) ceiling-mounted shelving and racks, defined as shelving and racks that suspend all of the load from the ceiling and do not stand on, or transfer load to, the floor; and (3) wall/ceiling mounted shelving and racks, defined as shelving and racks that suspend the load from the ceiling and the wall and do not stand on, or transfer load to, the floor. The addition of a wall or ceiling bracket or other device to attach otherwise subject merchandise to a wall or ceiling does not meet the terms of this exclusion.

Also excluded from the scope of these investigations is scaffolding that complies with ANSI/ASSE

A10.8–2011—Scaffolding Safety Requirements, CAN/CSA S269.2–M87 (Reaffirmed 2003)—Access Scaffolding for Construction Purposes, and/or Occupational Safety and Health Administration regulations at 29 CFR part 1926 subpart L—Scaffolds.

Also excluded from the scope of these investigations are tubular racks such as garment racks and drying racks, *i.e.,* racks in which the load bearing vertical and horizontal steel members consist solely of: (1) Round tubes that are no more than two inches in diameter; (2) round rods that are no more than two inches in diameter; (3) other tubular shapes that have both an overall height of no more than two inches and an overall width of no more than two inches; and/or (4) wire.

Also excluded from the scope of these investigations are portable tier racks. Portable tier racks must meet each of the following criteria to qualify for this exclusion:

(1) They are freestanding, portable assemblies with a fully welded base and four freely inserted and easily removable corner posts;

(2) They are assembled without the use of bolts, braces, anchors, brackets, clips, attachments, or connectors;

(3) One assembly may be stacked on top of another without applying any additional load to the product being stored on each assembly, but individual portable tier racks are not securely attached to one another to provide interaction or interdependence; and

(4) The assemblies have no mechanism (*e.g.,* a welded foot plate with bolt holes) for anchoring the assembly to the ground.

Also excluded from the scope of these investigations are accessories that are independently bolted to the floor and not attached to the rack system itself, *i.e.,* column protectors, corner guards, bollards, and end row and end of aisle protectors.

Merchandise covered by these investigations is currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under the following subheadings: 7326.90.8688, 9403.20.0080, and 9403.90.8041. Subject merchandise may also enter under subheadings 7308.90.3000, 7308.90.6000, 7308.90.9590, and 9403.20.0090. The HTSUS subheadings are provided for convenience and U.S. Customs purposes only. The written description of the scope is dispositive.''

Background.—The final phase of these investigations is being scheduled pursuant to sections 705(b) and 731(b) of the Tariff Act of 1930 (19 U.S.C. 1671d(b) and 1673d(b)), as a result of affirmative preliminary determinations by Commerce that certain benefits which constitute subsidies within the meaning of section 703 of the Act (19 U.S.C. 1671b) are being provided to manufacturers, producers, or exporters in China of steel racks, and that such products are being sold in the United States at less than fair value within the meaning of section 733 of the Act (19 U.S.C. 1673b). The investigations were requested in petitions filed on June 20, 2018, by Bulldog Rack Company, Weirton, West Virginia; Hannibal Industries, Inc., Los Angeles, California; Husky Rack and Wire, Denver, North Carolina; Ridg-U-Rak, Inc., North East, Pennsylvania; SpaceRAK, A Division of Heartland Steel Products, Inc., Marysville, Michigan; Speedrack Products Group, Ltd., Sparta, Michigan; Steel King Industries, Inc., Stevens Point, Wisconsin; Tri-Boro Shelving & Partition Corp., Farmville, Virginia; and UNARCO Material Handling, Inc., Springfield, Tennessee.

For further information concerning the conduct of this phase of the investigations, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A and B (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

Participation in the investigations and public service list.—Persons, including industrial users of the subject merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the final phase of these investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules, no later than 21 days prior to the hearing date specified in this notice. A party that filed a notice of appearance during the preliminary phase of the investigations need not file an additional notice of appearance during this final phase. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigations.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in the final phase of these investigations available to authorized applicants under the APO issued in the investigations, provided that the application is made no later than 21 days prior to the hearing date specified in this notice. Authorized applicants must represent interested parties, as defined by 19 U.S.C. 1677(9), who are parties to the investigations. A party granted access to BPI in the preliminary phase of the investigations need not reapply for such access. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff report.—The prehearing staff report in the final phase of these investigations will be placed in the nonpublic record on July 1, 2019, and a public version will be issued thereafter, pursuant to section 207.22 of the Commission's rules.

Hearing.—The Commission will hold a hearing in connection with the final phase of these investigations beginning at 9:30 a.m. on Tuesday, July 16, 2019, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before July 10, 2019. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should participate in a prehearing conference to be held on July 12, 2019, at the U.S. International Trade Commission Building, if deemed necessary. Oral testimony and written materials to be submitted at the public hearing are governed by sections 201.6(b)(2), 201.13(f), and 207.24 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony *in camera* no later than 7 business days prior to the date of the hearing.

Written submissions.—Each party who is an interested party shall submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of section 207.23 of the Commission's rules; the deadline for filing is July 9, 2019. Parties may also file written testimony in connection with their presentation at the hearing, as provided in section 207.24 of the Commission's rules, and posthearing briefs, which must conform with the provisions of section 207.25 of the Commission's rules. The deadline for filing posthearing briefs is July 23, 2019. In addition, any person who has not entered an appearance as a party to the investigations may submit a written statement of information pertinent to the subject of the investigations, including statements of support or opposition to the petition, on or before July 23, 2019. On August 14, 2019, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before August 16, 2019, but such final comments must not contain new factual information and must otherwise comply with section 207.30 of the Commission's rules. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's *Handbook on E-Filing,* available on the Commission's website at *https://edis.usitc.gov,* elaborates upon the Commission's rules with respect to electronic filing.

Additional written submissions to the Commission, including requests pursuant to section 201.12 of the Commission's rules, shall not be accepted unless good cause is shown for accepting such submissions, or unless the submission is pursuant to a specific request by a Commissioner or Commission staff.

In accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the investigations must be served on all other parties to the investigations (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.21 of the Commission's rules.

By order of the Commission.

Issued: March 22, 2019.

Katherine Hiner,

Acting Secretary to the Commission.

[FR Doc. 2019–05925 Filed 3–27–19; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF LABOR

Employment and Training Administration

Solicitation of nominations for the Native American Employment and Training Council

AGENCY: Employment and Training Administration, Department of Labor.

ACTION: Solicitation of nominations for the Native American Employment and Training Council (Council).

SUMMARY: The Department of Labor (Department) is soliciting nominations for appointment to the Council for consideration by the Secretary of Labor. The Secretary invites federally recognized tribes, Native American non-profit organizations, and Alaska Native and Native Hawaiian organizations to submit nominations and announces procedures for those nominations.

DATES: Nominations for individuals to serve on the Council must be submitted (postmarked if sending by mail; electronically or received if hand-delivered) by April 29, 2019.

ADDRESSES: Submit nominations and supporting materials described in this **Federal Register** Notice by any one of the following methods:

Electronically: Submit nominations, including attachments, by email using the following address: *NAETC@dol.gov* (Use subject line ''Nomination—Native American Employment and Training Council).

Mail, express delivery, hand delivery, messenger, or courier service: Submit one copy of the nominations and supporting materials to the following address: Native American Employment and Training Council Nominations, Division of Indian and Native American Programs, U.S. Department of Labor, 200 Constitution Ave. NW, Room S–4209, Washington, DC 20210. Deliveries by hand, express mail, messenger, and courier service are accepted by the Division of Indian and Native American Programs during the hours of 9:00 a.m.–5:00 p.m. Eastern Daylight Time, Monday through Friday. Due to security-related procedures, submissions by regular mail may experience significant delays.

Facsimile: The Department will not accept nominations submitted by fax.

FOR FURTHER INFORMATION CONTACT: Athena Brown, Division of Indian and Native American Programs, (address above); by phone at (202) 693–3737 or by email at *brown.athena@dol.gov* or *NAETC@dol.gov*.

SUPPLEMENTARY INFORMATION:

I. Background and Authority

The Council is a non-discretionary committee authorized under WIOA with the purpose of advising the Secretary on the operation and administration of the WIOA Section 166 Indian and Native American Employment and Training programs. The Charter provides for the Council to consist of no less than 15 but no more than 20 members, appointed by the Secretary, who are representatives of Indian tribes, tribal organizations, Alaska Native entities, Indian-controlled organizations serving Indians, and Native Hawaiian organizations. Members of the Council shall serve at the pleasure of the Secretary for a two-year term designated by the Secretary and without compensation except that members shall be allowed travel expenses, including per diem, while away from their homes or regular places of business in the performance of services for the Council.

II. Structure

Except as otherwise required by law, the Council membership will be consistent with the applicable Federal Advisory Committee Act (FACA) regulations as follows: (a) Membership on the Council will be fairly balanced; (b) members will come from a cross-section of those directly affected, interested, and qualified as appropriate to the nature and functions of the Council; and (c) the composition of the Council depends upon several factors, including: (i) The Council's mission; (ii) the geographic, ethnic, social, economic, or scientific impact of the advisory committee's recommendations; (iii) the types of specific perspectives required; (iv) the need to obtain divergent points of view on the issues before the Council, such as those of consumers, technical experts, the public at-large, academia, business, or other sectors; and (v) the relevance of state, local, and tribal governments to the development of the Council's recommendations.

Twelve appointments expired on May 11, 2018, and five expired on November 14, 2018. The Department is consolidating the nomination process for both appointment expiration dates in one announcement; however, the Council's two-year terms will remain the same. To the extent permitted by FACA and other laws, the Council membership should also be consistent with achieving the greatest impact, scope, and credibility among diverse stakeholders. The diversity in such membership includes but is not limited to: Race, gender, disability, sexual orientation, and gender identity.

III. Nomination Process

The Secretary seeks nominations from representatives of tribal governments and American Indian, Alaska Native, and Native Hawaiian organizations who have expertise in the areas of workforce development, secondary and post-secondary education, healthcare, human services, veteran services, and business and economic development to join the Council and provide expertise on the WIOA Section 166 Indian and Native American Programs. The Charter requires that the Council, to the extent practicable, shall represent all geographic areas of the United States with a substantial Indian, Alaska Native, or Native Hawaiian population. Accordingly, the Department seeks representatives from each of the six ETA regions (see ETA regions located at: *https://www.doleta.gov/regions*), as well as representatives from Hawaii, Alaska, Oklahoma, and Other Disciplines.

Appointments for the following 12 members expired on May 11, 2018:

Mr. Darrell Waldron, Region I, Boston (includes CT, MA, ME, NH, NJ, NY, PR, RI, VI and VT);

Mr. Elkton Richardson and Mr. Curtis Osceola, Region III, Atlanta (includes AL, FL, GA, KY, MS, NC, SC, and TN);

Ms. Kimberly Carroll, Region IV, Dallas (includes AR, CO, LA, MT, ND, NM, OK, SD, TX, UT, and WY);

Ms. Christine Campbell, Region V, Chicago (includes IA, IL, IN, KS, MI, MN, MO, NE, OH, and WI);

Mr. Gary Rickard, Ms. Roselyn Shirley, and Mr. Jacob Bernal, Region VI, San Francisco (includes AK, AZ, CA, GU, HI, ID, NV, OR, and WA);

Mr. Michael Tucker, Region VI, Alaska Native representative; and

Dr. Cynthia Lindquist, Mr. Jason Smith, and Mr. Dave Archambault II, Other Disciplines representatives.

All individuals listed above are eligible for nomination.

Appointments for the following five members expired on November 14, 2018:

Chief G. Anne Richardson, Region II, Philadelphia (includes DE, MD, PA, WV and VA);

Mr. Erwin L. Pahmahmie, Jr., Region IV, Dallas (includes AR, CO, LA, MT, ND, NM, OK, SD, TX, UT, and WY);

Mr. Daryl Legg, Region IV, Oklahoma representative;

Ms. Winona Whitman, Region VI, Native Hawaiian representative; and

Chairman Michael Hunter, Other Disciplines.

All members listed above are eligible for nomination.

Grantee representatives from the six ETA regions (including those designated as Pub. L. 102–477 grantees) may only submit nominations for individuals residing in their ETA region. Grantees from any ETA region may nominate individuals for Other Disciplines who reside in any ETA region. In order to meet the FACA requirement of a fairly balanced membership, individuals will also be nominated to represent Alaska Natives and Native Hawaiians in Region VI in addition to nominations for Region VI. Due to the number of tribes and the concentration of American Indians in Oklahoma, individuals will be nominated to represent the State of Oklahoma in addition to nominations for Region IV.

In submitting nominations, please consider the nominee's availability to attend and actively participate in Council meetings (a minimum of two meetings annually), willingness to serve on Council workgroups, and ability to provide feedback to the grantee community. Communication between the Council member and his or her constituency is essential to the partnership between the Department and the Indian and Native American communities. Nominations must include:

- Whether the nomination is for the May 11, 2018, vacancy or the November 14, 2018, vacancy;
- Nomination category (*e.g.,* ETA Region, Native Hawaiian representative, Alaska Native representative, Oklahoma representative, or representative for Other Disciplines). Those nominating a regional representative must reside in the same region as the nominee;
- Name;
- Title;
- Organization;
- Address;
- City, State, and Zip Code;
- Email;
- Phone Number;
- If nominated for Other Disciplines, specify Discipline;
- Nominator's Name;
- Organization;
- City, State;
- Signature and Date;
- Verification that the nominee formally accepted the nomination, and, for purposes of vetting, the nominee's date of birth is required;
- Signature and Date;
- A copy of the biographical information and resume of the nominee; and
- A cover letter that provides the reason(s) for nominating the individual and their particular expertise in the areas of workforce development, secondary and post-secondary education, healthcare, human services, veteran services, or business and economic development. In addition, the cover letter must state that the nomination is in response to this **Federal Register** Notice and that the nominee (if someone other than oneself) has accepted the nomination. We have provided an optional form for convenience. Download at *https://doleta.gov/dinap/pdf/NAETC_Nomination_Form.pdf.*

Authority: Pursuant to 29 U.S.C. 3221(i)(4), Section 166(i)(4) of the Workforce Innovation and Opportunity Act (WIOA), Pub. L. 113–128; Federal Advisory Committee Act (FACA) as amended 5 U.S.C. App.

Molly E. Conway,

Acting Assistant Secretary for Employment and Training Administration, Labor.

[FR Doc. 2019–05931 Filed 3–27–19; 8:45 am]

BILLING CODE 4501–FR–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

[FDMS No. NARA–19–0002; NARA–2019–017]

Records Schedules; Availability and Request for Comments

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice of availability of proposed records schedules; request for comments.

SUMMARY: The National Archives and Records Administration (NARA) publishes notice of certain Federal agency requests for records disposition authority (records schedules). We publish notice in the **Federal Register** and on regulations.gov for records schedules in which agencies propose to dispose of records they no longer need to conduct agency business. We invite public comments on such records schedules.

DATES: NARA must receive comments by May 13, 2019.

ADDRESSES: You may submit comments by either of the following methods. You must cite the control number, which appears on the records schedule in parentheses after the name of the agency that submitted the schedule.

- *Federal eRulemaking Portal: http://www.regulations.gov.*
- *Mail:* Records Appraisal and Agency Assistance (ACR); National Archives and Records Administration; 8601 Adelphi Road, College Park, MD 20740–6001.

FOR FURTHER INFORMATION CONTACT: Records Management Operations by email at *request.schedule@nara.gov,* by mail at the address above, or by phone at 301–837–1799.

SUPPLEMENTARY INFORMATION:

Public Comment Procedures

We are publishing notice of records schedules in which agencies propose to dispose of records they no longer need to conduct agency business. We invite public comments on these records schedules, as required by 44 U.S.C. 3303a(a), and list the schedules at the end of this notice by agency and subdivision requesting disposition authority.

In addition, this notice lists the organizational unit(s) accumulating the records or states that the schedule has agency-wide applicability. It also provides the control number assigned to each schedule, which you will need if you submit comments on that schedule. We have uploaded the records schedules and accompanying appraisal memoranda to the regulations.gov docket for this notice as ''other'' documents. Each records schedule contains a full description of the records at the file unit level as well as their proposed disposition. The appraisal memorandum for the schedule includes information about the records.

We will post comments, including any personal information and attachments, to the public docket unchanged. Because comments are public, you are responsible for ensuring that you do not include any confidential or other information that you or a third party may not wish to be publicly posted. If you want to submit a comment with confidential information or cannot otherwise use the *regulations.gov* portal, you may contact *request.schedule@nara.gov* for instructions on submitting your comment.

We will consider all comments submitted by the posted deadline and consult as needed with the Federal agency seeking the disposition authority. After considering comments, we will post on *regulations.gov* a ''Consolidated Reply'' summarizing the comments, responding to them, and noting any changes we have made to the proposed records schedule. We will then send the schedule for final approval by the Archivist of the United States. You may elect at *regulations.gov*

to receive updates on the docket, including an alert when we post the Consolidated Reply, whether or not you submit a comment. You may request additional information about the disposition process through the contact information listed above.

We will post schedules on our website in the Records Control Schedule (RCS) Repository, at *https://www.archives.gov/records-mgmt/rcs,* after the Archivist approves them. The RCS contains all schedules approved since 1973.

Background

Each year, Federal agencies create billions of records. To control this accumulation, agency records managers prepare schedules proposing retention periods for records and submit these schedules for NARA's approval. Once approved by NARA, records schedules provide mandatory instructions on what happens to records when no longer needed for current Government business. The records schedules authorize agencies to preserve records of continuing value in the National Archives or to destroy, after a specified period, records lacking continuing administrative, legal, research, or other value. Some schedules are comprehensive and cover all the records of an agency or one of its major subdivisions. Most schedules, however, cover records of only one office or program or a few series of records. Many of these update previously approved schedules, and some include records proposed as permanent.

Agencies may not destroy Federal records without the approval of the Archivist of the United States. The Archivist grants this approval only after thorough consideration of the records' administrative use by the agency of origin, the rights of the Government and of private people directly affected by the Government's activities, and whether or not the records have historical or other value. Public review and comment on these records schedules is part of the Archivist's consideration process.

Schedules Pending:

1. Department of Agriculture, Forest Service, Special Uses Administration (DAA–0095–2018–0059).
2. Department of Agriculture, Forest Service, Road and Trail Rights-of-Way (ROW) Grants (DAA–0095–2018–0060).
3. Department of Agriculture, Forest Service, Forest Service Authorized Prospecting and Mineral Collecting (DAA–0095–2018–0064).
4. Department of Agriculture, Forest Service, Geologic Resources, Hazards, and Services (DAA–0095–2018–0065).
5. Department of Agriculture, Forest Service, Natural Resource Planning (DAA–0095–2018–0090).
6. Department of Agriculture, Forest Service, Land Management Planning (DAA–0095–2018–0091).
7. Department of Commerce, National Institutes of Standards and Technology, Human Subjects Protection Office Records (DAA–0167–2018–0002).
8. Department of Defense, Defense Security Service, Special Access Program (SAP) (DAA–0446–2016–0005).
9. Department of Defense, Defense Security Service, Administrative Program Files (DAA–0446–2018–0002).
10. Department of Defense, Defense Security Service, Strategic Management Office (DAA–0446–2018–0004).
11. Department of Defense, Defense Threat Reduction Agency, DTRA Learning Management System (DAA–0374–2018–0008).
12. Department of Health and Human Services, National Institutes of Health, NIH Architectural Drawings of Historical Significance (DAA–0443–2018–0001).
13. Department of Homeland Security, Bureau of Customs and Border Protection, U.S. Citizen Encounter Photos (DAA–0568–2019–0002).
14. Army & Air Force Exchange Service, Agency-wide, Payroll Allotment Files (DAA–0334–2018–0008).
15. Bureau of the Census, Center for Behavioral Science Methods, Records for the Center for Survey Measurement (DAA–0029–2018–0001).
16. National Archives and Records Administration, Government-wide, Additions to GRS 5.7 (DAA–GRS–2018–0009).

Laurence Brewer,

Chief Records Officer for the U.S. Government.

[FR Doc. 2019–05929 Filed 3–27–19; 8:45 am]

BILLING CODE 7515–01–P

NATIONAL CREDIT UNION ADMINISTRATION

Sunshine Act; Notice of Agency Meeting

TIME AND DATE: 1:00 p.m., Wednesday, March 27, 2019.

PLACE: Board Room, 7th Floor, Room 7047, 1775 Duke Street, Alexandria, VA 22314–3428.

STATUS: Closed.

Pursuant to the provisions of the ''Government in Sunshine Act,'' notice is hereby given that the NCUA Board unanimously determined that agency business required holding a closed meeting with less than seven days' notice to the public, and that no earlier notice of the meeting was possible.

MATTERS TO BE CONSIDERED:

1. Consideration of Supervisory Action. Closed pursuant to Exemptions (8), (9) and (9)(ii).

CONTACT PERSON FOR MORE INFORMATION: Gerard Poliquin, Secretary of the Board, Telephone: 703–518–6304.

Gerard Poliquin,

Secretary of the Board.

[FR Doc. 2019–06113 Filed 3–26–19; 4:15 pm]

BILLING CODE 7535–01–P

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Mathematical and Physical Sciences; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation (NSF) announces the following meeting:

Name and Committee Code: Advisory Committee for Mathematical and Physical Sciences (#66).

Date and Time: May 2, 2019; 8:30 a.m. to 4:00 p.m. May 3, 2019; 8:30 a.m. to 12:30 p.m.

Place: NSF, 2415 Eisenhower Avenue, Alexandria, VA 22314.

Type of Meeting: Open.

Contact Person: Nadège Aoki, National Science Foundation, 2415 Eisenhower Avenue, Room C 9015B, Alexandria, Virginia 22314; Telephone: 703/292–4934.

Purpose of Meeting: To provide advice, recommendations and counsel on major goals and policies pertaining to MPS programs and activities.

Agenda

Thursday, May 2, 2019; 8:30 a.m. to 4:00 p.m.

- Presentation: Update on MPS Activities from Assistant Director Anne Kinney
- Presentation and Discussion: Joined session with OPP AC
- Presentation and Discussion: OLPA
- Presentation and Discussion: Update on Materials Decadal Survey and Spectrum Management
- Discussion with NSF COO

Friday, May 3, 2019; 8:30 a.m. to 12:30 p.m.

- Presentation and Discussion: Update on Quantum Leap Big Idea
- Presentation and Discussion: Synthetic Biology
- Discussion of MPS AC

Dated: March 22, 2019.

Crystal Robinson,

Committee Management Officer.

[FR Doc. 2019–05910 Filed 3–27–19; 8:45 am]

BILLING CODE 7555–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–85400; File No. SR–MSRB–2019–06]

Self-Regulatory Organizations; Municipal Securities Rulemaking Board; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend MSRB Rule A–13 to Temporarily Reduce the Rate of Assessment for the MSRB's Underwriting, Transaction and Technology Fees on Brokers, Dealers and Municipal Securities Dealers

March 22, 2019.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act'') [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 14, 2019 the Municipal Securities Rulemaking Board (''MSRB'') 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 MSRB. 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 MSRB filed with the Commission a proposed rule change to amend MSRB Rule A–13, on underwriting and transaction assessments for brokers, dealers and municipal securities dealers, to temporarily reduce the rate of assessment for the MSRB's underwriting, transaction and technology fees on brokers, dealers and municipal securities dealers (''dealers'') with respect to assessible activity that occurs from April 1, 2019 through September 30, 2019 (the ''proposed rule change''). The MSRB has designated the proposed rule change for immediate effectiveness.

The text of the proposed rule change is available on the MSRB's website at *www.msrb.org/Rules-and-Interpretations/SEC-Filings/2019-Filings.aspx,* at the MSRB's principal office, and at the Commission's Public Reference Room.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

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 MSRB 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 MSRB 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 temporarily reduce the rate of assessment for the MSRB's underwriting, transaction and technology fees for dealers under Rule A–13, with respect to assessible activity that occurs from April 1, 2019 through September 30, 2019. The proposed rule change is designed to reduce, in a carefully considered and strategic manner, MSRB reserves in a way that furthers the fair and equitable balance of fees across regulated entities.

Background

The MSRB discharges its statutory mandate under the Exchange Act through the establishment of rules for dealers and municipal advisors (together with dealers, ''regulated entities''), the collection and dissemination of market information, market leadership, outreach and education. To fund its responsibilities, the MSRB assesses fees on regulated entities, where the majority of the fees are driven by market activity. Moreover, as a self-regulatory organization, the MSRB must maintain sufficient reserves to discharge its responsibilities and operate without interruption, even in an economic downturn. Reserves are necessary to mitigate fluctuations in the MSRB's primarily market-driven revenue stream, and provide a backstop for funding services essential to the efficiency of the market. The MSRB manages reserves balances relative to a Board-approved target, and the Board recently revised the target construct which resulted in lowering of the target. As a result, following a prior fee reduction in the first quarter of the MRSB's Fiscal Year 2019 which occurred before the change in the reserves target (the ''first Fiscal Year 2019 temporary fee reduction''),[3] the Board determined that, given the impact of the newly lowered target, a second temporary fee reduction was necessary and appropriate to manage reserves balances.

Financial Reserves and the Board's Holistic Review of MSRB Fees

In 2010, after several years of heavy investment in the technological infrastructure needed to launch the MSRB's Electronic Municipal Market Access (EMMA®) website, the MSRB's financial reserve levels had dropped below the then reserve target that the MSRB had previously established. As a result, replenishing the MSRB's reserves became a priority. The following year, the MSRB increased the transaction fee under Rule A–13 and began assessing a new technology fee for dealers under the same rule.[4] By 2014, revenue from the technology fee had generated sufficient resources to stabilize the technology reserve and allowed the MSRB to rebate $3.6 million in technology fees to eligible dealers. Further, in 2014, with the extension of the MSRB's jurisdiction to regulate municipal advisors, this class of regulated entity began contributing to the cost of MSRB regulation.[5]

The Board's technology fee rebate decision and analysis of reserve levels prompted it in 2015 to conduct a holistic review of fees from dealer assessments, municipal advisors and other sources to determine whether further changes to the funding structure were warranted. The Board evaluated the assessment of MSRB fees on regulated entities with the goal of better aligning revenue sources with operating expenses and all capital needs. The Board strives to diversify funding sources among regulated entities and other entities that fund MSRB operations in a manner that ensures long-term sustainability, while continuing to strike an equitable balance in fees among regulated entities and a fair allocation of the cost of operating and administering the MSRB, including regulatory activities, systems development and operational activities. The Board, as it has historically, assesses such reasonable fees and charges as may be necessary or appropriate to defray the costs and expenses of operating and administering the Board.

[3] *See* Release No. 34–83713 (Jul. 26, 2018), 83 FR 37538 (Aug. 1, 2018) (File No. SR–MSRB–2018–06).

[4] *See* Release No. 34–63621 (Dec. 29, 2010), 76 FR 604 (Jan. 5, 2011) (File No. SR–MSRB–2010–10).

[5] *See* Release No. 34–72019 (Apr. 25, 2014), 79 FR 24798 (May 1, 2014) (File No. SR–MSRB–2014–03).

The first outcome of the holistic fee review was to substantially reduce (by 8.3%) the fee assessed on municipal securities underwriters. At the same time, the MSRB raised initial registration fees (which had not been adjusted since 1975) and annual fees (which had not been adjusted since 2009)—fees that are paid by all regulated entities—to better align with the cost of administering registrants and ensure that all registrants more fairly contributed to defraying the costs and expenses of operating and administering the MSRB.[6]

Outside of that 2015 holistic fee review and to help ensure that its fee structure remained balanced and fair, in 2016, the MSRB rebated $5.5 million in the excess reserves to dealers that were assessed underwriting, transaction and technology fees during the first nine months of the fiscal year. Subsequently and to further the objective of appropriately and equitably assessing fees across all regulated activities, in 2018, the MSRB introduced a new fee on underwriters of 529 savings plans, as underwriters to 529 savings plans had not previously paid a fee in this capacity since the MSRB began regulating those underwriters in 1999.[7]

Current Fees

The current fees assessed on regulated entities are:

1. Municipal advisor professional fee (Rule A–11). $500 for each person associated with the municipal advisor who is qualified as a municipal advisor representative in accordance with Rule G–3 and for whom the municipal advisor has on file with the SEC a Form MA–I as of January 31 of each year;

2. Initial registration fee (Rule A–12). $1,000 one-time registration fee to be paid by each dealer to register with the MSRB before engaging in municipal securities activities and by each municipal advisor to register with the MSRB before engaging in municipal advisory activities;

3. Annual registration fee (Rule A–12). $1,000 annual fee to be paid by each dealer and municipal advisor registered with the MSRB;

4. Late fee (Rule A–11 and Rule A–12). $25 monthly late fee and a late fee on the overdue balance (computed according to the prime rate) until paid on balances not paid within 30 days of the invoice date by the dealer or municipal advisor;

5. Underwriting fee (Rule A–13). $.0275 per $1,000 of the par value paid by a dealer, on all municipal securities purchased from an issuer by or through such dealer, whether acting as principal or agent as part of a primary offering; and in the case of an underwriter (as defined in Rule G–45) of a primary offering of certain municipal fund securities, $.005 per $1,000 of the total aggregate assets for the reporting period (*i.e.,* the 529 savings plan fee on underwriters);

6. Transaction fee (Rule A–13). .001% ($.01 per $1,000) of the total par value to be paid by a dealer, except in limited circumstances, for inter-dealer sales and customer sales reported to the MSRB pursuant to Rule G–14(b), on transaction reporting requirements;

7. Technology fee (Rule A–13). $1.00 paid per transaction by a dealer for each inter-dealer sale and for each sale to customers reported to the MSRB pursuant to Rule G–14(b); and

8. Examination fee (Rule A–16). $150 test development fee assessed per candidate for each MSRB examination.[8]

Notably, while all regulated entities contribute to the MSRB's revenue base, the three fees that are the subject of the proposed rule change (underwriting, transaction and technology fees) constitute approximately 79% of the MSRB's Fiscal Year 2019 budgeted revenue. Those three fees are market based, inherently unpredictable, and have historically exceeded the respective conservative amounts that the MSRB has budgeted for them, thereby directly contributing to the excess reserves position. Other fees assessed, described above, contribute to the funding of the MSRB; however, they have not contributed to the excess reserves position. Over time, as the MSRB has considered the reasonable fees and charges necessary or appropriate to defray the costs and expenses of operating and administering the Board, the Board has continually strived to have an equitable balance of fees among regulated entities.[9] The fees that contributed to the excess reserve position are the fees that are the subject of the proposed rule change.[10]

Recent Reserves Review by the Board

Following the development of its Fiscal Year 2019 budget, which included the first Fiscal Year 2019 temporary fee reduction covering the underwriting, transaction and technology fees assessed on dealers for assessible activity that occurred from October 1, 2018 through December 31, 2018, the Board, in its normal course of prudent fiscal management, reviewed the MSRB's reserves. That review, which resulted in a reduction in the reserves target, was part of the Board's continued efforts to properly calibrate the reserves relative to the appropriate financial resources needed by the organization to fulfill its statutory mandate, support mission objectives, respond to regulatory requirements, avail itself of strategically important initiatives in furtherance of the mission, enable the organization to be fiscally prepared regardless of economic conditions, provide the MSRB with the requisite level of liquidity to fund operations and ensure the long-term financial sustainability of the organization.

Following the Board's determination to reduce its reserves target and because of a corresponding increase in the excess reserves position, the Board then determined to provide a second temporary fee reduction of its three largest sources of revenue (*i.e.,* underwriting, transaction and technology fees) which, as noted previously, collectively constitute approximately 79% of the MSRB's

[6] As part of the 2015 holistic fee review, the Board also determined that the technology fee, originally dedicated solely to funding capitalized hardware and software, would be available for funding all MSRB operations. *See* Release No. 34–75751 (Aug. 24, 2015), 80 FR 52352 (Aug. 28, 2015) (File No. SR–MSRB–2015–08).

[7] *See* Release No. 34–81264 (Jul 31, 2017), 82 FR 36472 (Aug. 4, 2017) (File No. SR–MSRB–2017–05).

[8] In addition, the MSRB charges data subscription service fees for subscribers, including dealers and municipal advisors, seeking direct electronic delivery of municipal trade data and disclosure documents associated with municipal bond issues. However, this information is available without direct electronic delivery on the MSRB's EMMA website without charge.

[9] The MSRB stated, in 2017, as part of the increase at that time of the municipal advisor professional fee from $300 to $500 that the increase was moving toward a more equitable balance of fees among regulated entities. *See* MSRB Regulatory Notice 2017–20 (Sept. 29, 2017) in which the MSRB stated:

The increase also moves towards a more equitable balance of fees among regulated entities and, as a result, a fairer allocation of the expenses of the MSRB across regulated entities. The original $300 per professional fee was established in 2014 as a reasonable initial starting amount for the fee. As part of the MSRB's holistic review of fees a year later, the MSRB reconsidered the amount of this fee, but determined not to increase it at that time in order to allow municipal advisors additional time to adapt to regulation. However, the MSRB noted that it would revisit the amount of the fee in light of the substantial costs associated with developing and maintaining a regulatory regime for municipal advisors, which is what led to the current fee increase filed today. The MSRB will continue to review and evaluate its fees over time to ensure that fees are allocated fairly and equitably across all regulated entities.

See also Release No. 34–81841 (Oct. 10, 2017), 82 FR 48135, 48138 (Oct. 16, 2017) (File No. SR–MSRB–2017–07).

[10] In addition to the fees discussed above, the MSRB also receives other revenue, including fine revenue, that contributes to the excess reserves position. Fine revenue became a new revenue source as first provided in 2010 under the Dodd-Frank Wall Street Reform and Consumer Protection Act. *See* 15 U.S.C. 78*o*–4(c)(9).

Fiscal Year 2019 budgeted revenue and directly contributed to the excess reserves position.[11] The Board's determination to implement a second fee reduction, which is the subject of this proposed rule change, was a direct result of the change in the reserves target construct and the decrease in the target. The proposed rule change is projected to result in approximately $5.2 million of foregone revenue and reduce the MSRB's reserves, which the Board determined would be appropriate and consistent with its prudent fiscal management. In total, the MSRB estimates that the combined temporary fee reductions for the MSRB's Fiscal Year 2019 would reduce reserves by $7.9 million.[12]

Proposed Rule Change

Pursuant to Rule A–13, each dealer must pay to the Board underwriting, transaction and technology fees based upon the rates specified in that rule. The proposed rule change would amend section (h) which sets forth revised temporary assessment rates for these three types of assessments, generally reducing by one-third the fees for assessible activity that occurs from April 1, 2019 through September 30, 2019. Amended Rule A–13(h)(i) would provide that the underwriting assessment for certain primary offerings for this time period would be .00185% of the par value ($0.0185 per $1,000), a reduction from .00275% of the par value ($.0275 per $1,000). Amended Rule A–13(h)(ii) would provide that the transaction assessment would be .00067% of the par value ($0.0067 per $1,000), a reduction from .001% ($.01 per $1,000). Finally, amended Rule A–13(h)(iii) would provide that the technology assessment would be $0.67 per transaction (a reduction from $1.00 per transaction). Rates of assessment would revert to current levels, effective October 1, 2019, on assessible activity occurring on and after that date.

Importantly, the temporarily reduced rates would be for assessible activity that occurs during this six-month period. Dealers are typically billed for these fees after the relevant month end. Specifically, the underwriting fee is billed immediately after the respective month end, while the transaction and technology fees are billed thirty days in arrears.

The Board seeks to strike the right balance in fee assessments to maintain sufficient reserves to ensure fiscal sustainability, while providing relief to regulated entities that have contributed to the excess reserves position. The temporary six-month fee reduction for the underwriting, transaction and technology fees assessed on dealers would continue these ongoing efforts.

In addition, the proposed rule change would correct an inadvertent typographical error by amending Rule A–13(h)(iii) to appropriately refer to the technology assessment.

2. Statutory Basis

The MSRB believes that the proposed rule change is consistent with Section 15B(b)(2)(J) of the Act[13] which states that the MSRB's rules shall:

> provide that each municipal securities broker, municipal securities dealer, and municipal advisor shall pay to the Board such reasonable fees and charges as may be necessary or appropriate to defray the costs and expenses of operating and administering the Board. Such rules shall specify the amount of such fees and charges, which may include charges for failure to submit to the Board, or to any information system operated by the Board, within the prescribed timeframes, any items of information or documents required to be submitted under any rule issued by the Board.

In general, the MSRB believes that its rules provide for reasonable dues, fees, and other charges among regulated entities. The MSRB believes that the proposed rule change is necessary and appropriate to fund the operation and administration of the Board and satisfies the requirements of Section 15B(b)(2)(J),[14] achieving a more equitable balance of fees among regulated entities and a fairer allocation of the expenses of the regulatory activities, system development and operational activities undertaken by the MSRB because the proposed rule change would temporarily decrease fees for the regulated entities that financially contributed to the excess reserves position.

The MSRB manages reserves balances relative to a Board-approved target, and the Board recently revised the target construct which resulted in lowering of the target. As a result, following the first Fiscal Year 2019 temporary fee reduction,[15] the Board determined that, given the impact of the newly lowered target, a second temporary fee reduction was necessary and appropriate to manage reserves balances. However, looking forward to future years (and after the six-month temporary fee reduction), the MSRB's pro formas project reserves to fall below the targeted level.[16] As a result, the MSRB believes that the temporary fee reduction is preferable to an alternative approach, such as a permanent fee reduction, as increased fees will likely be required in the future to fund the MSRB's resource needs and achieve a balanced budget. Therefore, it did not seem reasonable to propose a permanent fee reduction, and then likely require an increase in fees thereafter to generate sufficient revenue to fund MSRB operations.

While the MSRB has progressively budgeted for municipal advisor fees to defray a greater portion of the cost of the MSRB's municipal advisor-related activity, the MSRB continues to review and evaluate fees over time to ensure that fees are allocated fairly among regulated entities.[17] As described under ''Purpose'' above, the MSRB has determined to reduce fees on dealers whose fees have contributed to the preponderance of the MSRB's revenues and current reserves position. The MSRB's first Fiscal Year 2019 temporary fee reduction was based on the same rationale.[18]

B. Self-Regulatory Organization's Statement on Burden on Competition

Section 15B(b)(2)(C) of the Act[19] requires that MSRB rules not be designed to impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

The Board's policy on the use of economic analysis limits its application regarding those rules for which the Board seeks immediate effectiveness.[20] However, an internal analysis is still conducted to gauge the economic impact, with an emphasis on the burden on competition involving regulated entities.

In this regard, the Board believes the proposed rule change is necessary and

[11] *See* discussion under ''Current Fees,'' above.

[12] *See* MSRB Executive Budget Summary for the Fiscal Year Beginning on October 1, 2018 for a discussion of the MSRB's reserves.

[13] 15 U.S.C. 78*o*–4(b)(2)(J).

[14] *Id.*

[15] *See* Release No. 34–83713 (Jul. 26, 2018), 83 FR 37538 (Aug. 1, 2018) (File No. SR–MSRB–2018–06).

[16] *See supra* note 12.

[17] *See supra* note 9.

[18] *See supra* note 3.

[19] 15 U.S.C. 78*o*–4(b)(2)(C).

[20] The scope of the Board's policy on the use of economic analysis in rulemaking provides that:

> [t]his Policy addresses rulemaking activities of the MSRB that culminate, or are expected to culminate, in a filing of a proposed rule change with the SEC under Section 19(b) of the Exchange Act, other than a proposed rule change that the MSRB reasonably believes would qualify for immediate effectiveness under Section 19(b)(3)(A) of the Exchange Act if filed as such or as otherwise provided under the exception process of this Policy.

Policy on the Use of Economic Analysis in MSRB Rulemaking, available at *http://msrb.org/Rules-and-Interpretations/Economic-Analysis-Policy.aspx*. For those rule changes which the MSRB seeks immediate effectiveness, the MSRB usually focuses exclusively its examination on the burden of competition on regulated entities.

appropriate to promote fairness in funding the operation and administration of the Board and would achieve a more equitable balance among regulated entities and a more balanced allocation of the expenses of the regulatory activities, systems development, and operational activities undertaken by the MSRB. Because the three fees that are the subject of the proposed rule change (underwriting, transaction and technology fees) are the primary drivers for the MSRB's reserves, the Board believes that it is appropriate to temporarily reduce these fees for the designated period.

The MSRB does not believe that the proposed rule change would result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as it would temporarily decrease the underwriting, transaction and technology fees by the same percentage for all dealers subject to these fees.

The MSRB believes that the proposed rule change would not impose an unnecessary or inappropriate regulatory burden on small regulated entities, as smaller dealers would benefit from the temporary fee reduction in the same proportion as larger dealers in relation to the assessible activity during the relevant period.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Board did not solicit comment on the proposed rule change. Therefore, there are no comments on the proposed rule change received from members, participants or others.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing proposed rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act [21] and Rule 19b–4(f)(2) [22] 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.

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–MSRB–2019–06 on the subject line.

Paper Comments

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

All submissions should refer to File Number SR–MSRB–2019–06. 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 MSRB. 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–MSRB–2019–06 and should be submitted on or before April 18, 2019.

For the Commission, pursuant to delegated authority.[23]

Eduardo A. Aleman,

Deputy Secretary.

[FR Doc. 2019–05924 Filed 3–27–19; 8:45 am]

BILLING CODE 8011–01–P

[21] 15 U.S.C. 78s(b)(3)(A)(ii).

[22] 17 CFR 240.19b–4(f)(2).

[23] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–85396; File No. SR–ISE–2019–07]

Self-Regulatory Organizations; Nasdaq ISE, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Market Maker Plus Program

March 22, 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 11, 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.

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.

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 amend the Exchange's Market Maker Plus program, as described in detail below.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

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 [8]
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)

The Exchange now proposes to introduce a separate rebate program for Market Makers that achieve Market Maker Plus in options overlying symbols AMZN, FB, or NVDA in order to promote and encourage liquidity in those particular Select Symbols.[9] Specifically, Market Makers that achieve Market Maker Plus Tiers 1–3 as proposed below for executions in AMZN, FB, or NVDA will receive the following maker rebates:

Market Maker Plus tier (specified percentage)	Maker rebate
Tier 1 (70% to less than 85%)	($0.15)
Tier 2 (85% to less than 95%)	(0.18)
Tier 3 (95% or greater)	(0.22)

The proposed rebates for AMZN, FB, and NVDA are the same as the rebates currently provided for Select Symbols (other than SPY, QQQ, and IWM), except that the proposal lowers the minimum qualification in Tier 1 from 80% to 70% for AMZN, FB, and NVDA.

In addition, the Exchange proposes to ''link'' the benefits associated with the Market Maker's performance in AMZN, FB, and NVDA such that the proposed Tiers 1–3 maker rebates will apply to executions in AMZN, FB, or NVDA if the Market Maker does not achieve the applicable tier in that symbol, but achieves the tier (*i.e.,* proposed Tiers 1–3) for any badge/suffix combination in the other two symbols. Once the applicable tier—any of proposed Tiers 1, 2 or 3—is achieved for two out of the three symbols AMZN, FB, or NVDA, the Market Maker will be eligible for a maker rebate in the third symbol, which will be provided in addition to the maker rebate for the applicable tier achieved in the other two symbols. If a Market Maker would qualify for different Market Maker Plus Tiers 1–3 in the two symbols, then the lower of the two maker rebates will be applied to the third symbol. Thus, for example, if a Market Maker achieves Tier 1 in AMZN and Tier 2 in FB, the Market Maker would receive the Tier 1 maker rebate in NVDA ($0.15 per contract), Tier 1

[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.

[8] 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, 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.

[9] Qualifying Market Makers will continue to receive the maker rebates described above in products other than AMZN, FB, and NVDA.

maker rebate in AMZN ($0.15 per contract), and Tier 2 maker rebate in FB ($0.18 per contract). The Exchange notes that this rebate will be provided in the third symbol regardless of time at the NBBO (*i.e.,* there is no minimum tier threshold to be met in the third symbol for the ''linked'' maker rebate). As such, if all three symbols separately achieve any of Market Maker Plus Tiers 1–3, the symbol that achieves the tier with the lowest maker rebate will instead receive the same maker rebate as the symbol that achieved the next lowest tier. For example, if a Market Maker achieves Tier 1 in AMZN, Tier 2 in FB, and Tier 3 in NVDA, the Market Maker would receive the $0.18 per contract ''linked'' Tier 2 maker rebate in AMZN based on their FB performance, the $0.18 per contract Tier 2 maker rebate in FB, and the $0.22 per contract Tier 3 maker rebate in NVDA.

Because the Exchange is introducing a separate rebate program for AMZN, FB, and NVDA, the associated rebate table heading for Select Symbols other than SPY, QQQ, and IWM will be expanded to include AMZN, FB, and NVDA under this proposal.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[10] in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,[11] 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 it is reasonable and equitable to offer special rebates for Market Makers that achieve Market Maker Plus in AMZN, FB or NVDA. As proposed, Market Makers would receive the same tiered rebates in those three symbols as the tiered rebates provided in Select Symbols other than SPY, QQQ, and IWM (*i.e.,* $0.15, $0.18, and $0.22 per contract). Furthermore, the proposal lowers the minimum qualification in Tier 1 for percentage of time spent quoting at the NBBO to 70% less than 85% for AMZN, FB, and NVDA (as opposed to 80% to less than 85% for Select Symbols other than SPY, QQQ, and IWM). The proposed rule change will therefore allow Market Makers that would not qualify for Market Maker Plus in AMZN, FB, or NVDA today to qualify for the $0.15 per contract maker rebate based on a time at the NBBO of at least 70% of the time pursuant to proposed Tier 1.

In addition, the proposal links the benefits associated with the Market Maker's performance in AMZN, FB, and NVDA so that the Market Maker would be able to receive a maker rebate in any of those symbols by meeting the requirements of Market Maker Plus Tiers 1–3 in the other two, as further described above. Accordingly, the Exchange believes that Market Makers would be incentivized by the ability to earn this linked rebate, in addition to the applicable tiered rebates provided in the other two symbols, to maintain quality markets in those three symbols on ISE.

The Market Maker Plus program is designed to attract liquidity from Market Makers and provide incentives for those Market Makers to maintain tight markets, measured by time spent quoting at the NBBO. For the reasons discussed above, the Exchange believes that the proposed rule change has the potential to further benefit market quality by encouraging Market Makers to maintain tight markets in AMZN, FB, and NVDA, which are highly active symbols within the industry, thereby creating a more active and liquid market for options traded on the Exchange. Furthermore, the Exchange believes that these three symbols have significant interest amongst retail options investors, as the underlying stocks themselves are high-priced with each currently priced above $150 per share. The proposed pricing incentive for Market Makers is therefore meant to encourage more trading activity on the Exchange amongst all market participant types by encouraging Market Makers to maintain tight markets in these symbols.

The Exchange also believes that the proposed changes are not unfairly discriminatory as all Market Makers can qualify for the same rebates based on achieving the appropriate tier of Market Maker Plus in AMZN, FB, and NVDA. 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 proposed changes to Market Maker Plus to introduce a separate rebate program for AMZN, FB, and NVDA are designed to increase competition by encouraging Market Makers to provide liquidity and maintain tight markets in these high volume symbols 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,[12] and Rule 19b–4(f)(2) [13] 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–2019–07 on the subject line.

[10] 15 U.S.C. 78f(b).

[11] 15 U.S.C. 78f(b)(4) and (5).

[12] 15 U.S.C. 78s(b)(3)(A)(ii).

[13] 17 CFR 240.19b–4(f)(2).

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–2019–07. 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 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–2019–07 and should be submitted on or before April 18, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Eduardo A. Aleman,

Deputy Secretary.

[FR Doc. 2019–05922 Filed 3–27–19; 8:45 am]

BILLING CODE 8011–01–P

[14] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–85397; File No. SR–PEARL–2019–04]

Self-Regulatory Organizations; MIAX PEARL, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Exchange Rule 507, Must Give Up Clearing Member, and Rule 513, Submission of Orders and Clearance of Transactions

March 22, 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 March 11, 2019, MIAX PEARL, LLC (''MIAX PEARL'' or the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') a proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is filing a proposal to amend Rule 507, Must Give Up Clearing Member, and Rule 513, Submission of Orders and Clearance of Transactions, in order to codify the requirement that for each transaction in which a Member[3] participates, the Member may indicate the name of any Clearing Member[4] through which the transaction will be cleared (''Give Up''), and to establish a new ''Opt In'' process by which a Clearing Member can restrict one or more of its OCC numbers and thereafter designate certain Members as authorized to Give Up a restricted clearing number.

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.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[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] The term ''Clearing Member'' means a Member that has been admitted to membership in the Clearing Corporation pursuant to the provisions of the rules of the Clearing Corporation. *See* Exchange Rule 100.

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 requirements in MIAX PEARL Rule 507 and Rule 513, related to the give up of a Clearing Member by a Member on Exchange transactions. By way of background, to enter transactions on the Exchange, a Member must either be a Clearing Member or must have a Clearing Member agree to accept financial responsibility for all of its transactions. Additionally, Rule 507 currently provides that when a Member executes a transaction on the Exchange, it must give up the name of a Clearing Member (the ''Give Up'') through which the transaction will be cleared (*i.e.,* ''give up''). The Exchange believes that this proposal would result in the fair and reasonable use of resources by both the Exchange and the Member. In addition, the proposed change would align the Exchange with competing options exchanges that have proposed rules consistent with this proposal.[5]

Recently, certain Clearing Members, in conjunction with the Securities Industry and Financial Markets Association (''SIFMA''), expressed concerns related to the process by which executing brokers on U.S. options

[5] *See* Securities Exchange Act Release No. 84624 (November 19, 2018), 83 FR 60547 (November 26, 2018) (SR–Phlx–2018–72) (Notice of Filing of Proposed Rule Change to Establish Rules Governing the Give Up of a Clearing Member by a Member Organization on Exchange Transactions). *See also* Securities Exchange Act Release No. 84981 (January 9, 2019), 84 FR 837 (January 31, 2019) (SR–Phlx–2018–72) (Notice of Designation of a Longer Period for Commission Action on a Proposed Rule Change To Establish Rules Governing the Give Up of a Clearing Member by a Member Organization on Exchange Transactions). *See also* Securities Exchange Act Release No. 85136 (February 14, 2019) (SR–Phlx–2018–72)(Order Approving a Proposed Rule Change to Establish Rules Governing the Give Up of a Clearing Member by a Member Organization on Exchange Transactions).

exchanges (''Exchanges'') are allowed to designate or 'give up' a clearing firm for the purposes of clearing particular transactions. The SIFMA-affiliated Clearing Members have recently identified the current give up process as a significant source of risk for clearing firms, and subsequently requested that the Exchanges alleviate this risk by amending Exchange rules governing the give up process.[6]

Proposed Rule Change

Based on the above, the Exchange now seeks to amend its rules regarding the current give up process in order to allow a Clearing Member to opt in, at The Options Clearing Corporation (''OCC'') clearing number level, to a feature that, if enabled by the Clearing Member, will allow the Clearing Member to specify which Members are authorized to give up that OCC clearing number. As proposed, Rule 507 will be amended to provide that for each transaction in which a Member participates, the Member may indicate the name of any Clearing Member through which the transaction will be cleared (''Give Up''), provided the Clearing Member has not elected to ''Opt In'', as defined in paragraph (b) of the proposed Rule, and restricted one or more of its OCC number(s) (''Restricted OCC Number'').[7] A Member may Give Up a Restricted OCC Number provided the Member has written authorization as described in paragraph (b)(2) (''Authorized Member'').

Proposed Rule 507(b) provides that Clearing Members may request the Exchange restrict one or more of their OCC clearing numbers (''Opt In'') as described in subparagraph (b)(1) of Rule 507. If a Clearing Member Opts In, the Exchange will require written authorization from the Clearing Member permitting a Member to Give Up a Clearing Member's Restricted OCC Number. An Opt In would remain in effect until the Clearing Member terminates the Opt In as described in subparagraph (3). If a Clearing Member does not Opt In, that Clearing Member's OCC number may be subject to Give Up by any Member.

Proposed Rule 507(b)(1) will set forth the process by which a Clearing Member may Opt In. Specifically, a Clearing Member may Opt In by sending a completed ''Clearing Member Restriction Form'' listing all Restricted OCC Numbers and Authorized Members.[8] A copy of the proposed form is attached in Exhibit 3. A Clearing Member may elect to restrict one or more OCC clearing numbers that are registered in its name at OCC. The Clearing Member would be required to submit the Clearing Member Restriction Form to the Exchange's Membership Department as described on the form. Once submitted, the Exchange requires ninety days before a Restricted OCC Number is effective within the System. This time period is to provide adequate time for the Member users of that Restricted OCC Number who are not initially specified by the Clearing Member as Authorized Members to obtain the required written authorization from the Clearing Member for that Restricted OCC Number. Such Member users would still be able to Give Up that Restricted OCC Number during the ninety day period (*i.e.,* until the number becomes restricted within the System).

Proposed Rule 507(b)(2) will set forth the process for Members to Give Up a Clearing Member's Restricted OCC Number. Specifically, a Member desiring to Give Up a Restricted OCC Number must become an Authorized Member.[9] The Clearing Member will be required to authorize a Member as described in subparagraph (1) or (3) of Rule 507(b) (*i.e.,* through an Clearing Member Restriction Form), unless the Restricted OCC Number is already subject to a Letter of Guarantee that the Member is a party to, as set forth in Rule 507(d).

Pursuant to proposed Rule 507(b)(3), a Clearing Member may amend the list of its Authorized Members or Restricted OCC Numbers by submitting a new Clearing Member Restriction Form to the Exchange's Membership Department indicating the amendment as described on the form. Once a Restricted OCC Number is effective within the System pursuant to Rule 507(b)(1), the Exchange may permit the Clearing Member to authorize, or remove from authorization for, a Member to Give Up the Restricted OCC Number intra-day only in unusual circumstances, and on the next business day in all regular circumstances. The Exchange will promptly notify the Member if they are no longer authorized to Give Up a Clearing Member's Restricted OCC Number. If a Clearing Member removes a Restricted OCC Number, any Member may Give Up that OCC clearing number once the removal has become effective on or before the next business day.

Proposed Rule 507(c) will provide that the System will not allow an unauthorized Member to Give Up a Restricted OCC Number. Specifically, the System will not allow an unauthorized Give Up with a Restricted OCC Number to be submitted at the firm mnemonic level at the point of order entry.[10]

Furthermore, the Exchange proposes to adopt paragraph (d) to Rule 507 to provide, as is the case today, that a clearing arrangement subject to a Letter of Guarantee would immediately permit the Give Up of a Restricted OCC Number by the Member that is party to the arrangement. Since there is an OCC clearing arrangement already established in this case, no further action is needed on the part of the Clearing Member or the Member.

The Exchange also proposes to adopt paragraph (e) to Rule 507 to provide that an intentional misuse of this Rule is impermissible, and may be treated as a violation of Rule 301, titled ''Just and Equitable Principles of Trade.'' This language will make clear that the Exchange will regulate an intentional misuse of this Rule (*e.g.,* sending orders to a Clearing Member's OCC account without the Clearing Member's consent), and such behavior would be a violation of Exchange rules.

Furthermore, the Exchange proposes to adopt paragraph (f) to Rule 507 to codify that notwithstanding anything to the contrary in the proposed rule, if a Clearing Member that a Member has indicated as the Give Up rejects a trade, the Clearing Member that has issued a Letter of Guarantee pursuant to Rule 209, for such executing Member, shall be responsible for the clearance of the subject trade.

[6] *See id.*

[7] Today, electronic trades need a valid mnemonic, which is only set up if there is a clearing arrangement already in place through a Letter of Guarantee. As such, electronic trades automatically clear through the guarantor associated with the mnemonic at the time of the trade, so a Member may only amend its Give Up post-trade. As proposed, the Exchange will also restrict the post-trade allocation portion of an electronic trade systematically. *See* note 10 below.

[8] This form will be available on the Exchange's website. The Exchange will also maintain, on its website, a list of the Restricted OCC Numbers, which will be updated on a regular basis, and the Clearing Member's contact information to assist Members (to the extent they are not already Authorized Members) with requesting authorization for a Restricted OCC Number. The Exchange may utilize additional means to inform its Members of such updates on a periodic basis.

[9] The Exchange will develop procedures for notifying Members that they are authorized or unauthorized by Clearing Members.

[10] Specifically, the System will block the entry of the order from the outset. This is because a valid mnemonic will be required for any order to be submitted directly to the System, and a mnemonic will only be set up for a Member if there is already a clearing arrangement in place for that firm either through a Letter of Guarantee (as is the case today) or in the case of a Restricted OCC Number, the Member becoming an Authorized Member. The System will also restrict any post-trade allocation changes if the Member is not authorized to use a Restricted OCC Number.

Finally, the Exchange proposes to amend Rule 513, which addresses the financial responsibility of Exchange options transactions clearing through Clearing Members, to clarify that this Rule will apply to all Clearing Members, regardless of whether or not they elect to Opt In, pursuant to proposed Rule 507. Specifically, the Exchange proposes to add that Rule 513 will apply to all Clearing Members who either (i) have Restricted OCC Numbers with Authorized Members pursuant to Rule 507, or (ii) have non-Restricted OCC Numbers.

2. Statutory Basis

MIAX PEARL believes that its proposed rule change is consistent with Section 6(b) of the Act [11] in general, and furthers the objectives of Section 6(b)(5) of the Act [12] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanisms of a free and open market and a national market system and, in general, to protect investors and the public interest.

Particularly, as discussed above, several clearing firms affiliated with SIFMA have recently expressed concerns relating to the current give up process, which permits Members to identify any Clearing Member as a designated give up for purposes of clearing particular transactions, and have identified the current give up process (*i.e.,* a process that lacks authorization) as a significant source of risk for clearing firms.

The Exchange believes that the proposed changes to Rule 507 help alleviate this risk by enabling Clearing Members to 'Opt In' to restrict one or more of its OCC clearing numbers (*i.e.,* Restricted OCC Numbers), and to specify which Authorized Member may Give Up those Restricted OCC Numbers. As described above, all other Members would be required to receive written authorization from the Clearing Member before they can Give Up that Clearing Member's Restricted OCC Number. The Exchange believes that this authorization provides proper safeguards and protections for Clearing Members as it provides controls for Clearing Members to restrict access to their OCC clearing numbers, allowing access only to those Authorized Members upon their request. The Exchange also believes that its proposed Clearing Member Restriction Form allows the Exchange to receive in a uniform fashion, written and transparent authorization from Clearing Members, which ensures seamless administration of the Rule.

The Exchange believes that the proposed Opt In process strikes the right balance between the various views and interests across the industry. For example, although the proposed rule would require Members (other than Authorized Members) to seek authorization from Clearing Members in order to have the ability to give them up, each Member will still have the ability to Give Up a Restricted OCC Number that is subject to a Letter of Guarantee without obtaining any further authorization if that Member is party to that arrangement. The Exchange also notes that to the extent that the executing Member has a clearing arrangement with a Clearing Member (*i.e.,* through a Letter of Guarantee), a trade can be assigned to the executing Members guarantor.[13] Accordingly, the Exchange believes that the proposed rule change is reasonable and continues to provide certainty that a Clearing Member would be responsible for a trade, which protects investors and the public interest. Additionally, the Exchange believes that adopting paragraph (e) of Rule 507 will make clear that an intentional misuse of this Rule (*e.g.,* sending orders to a Clearing Member's OCC account without the Clearing Member's consent) will be a violation of the Exchange's rules, and that such behavior would subject a Member to disciplinary action. For these reasons, the Exchange believes that its proposed changes to Rule 507 and Rule 513, is consistent with Section 6(b) of the Act in general, and furthers the objectives of Section 6(b)(5) of the Act in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanisms of a free and open market and a national market system and, in general, to protect investors and the public interest, by codifying the requirement that for each transaction in a which a Member participates, the Member may indicate the name of any Clearing Member through which the transaction will be cleared, provided the Clearing Member has not elected to Opt In.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe that the proposed rule change will impose an unnecessary burden on intra-market competition because it will apply equally to all similarly situated Members. The Exchange also notes that, should the proposed changes make MIAX PEARL more attractive for trading, market participants trading on other exchanges can always elect to become Members on MIAX PEARL to take advantage of the trading opportunities.

Furthermore, the proposed rule change does not address any competitive issues and ultimately, the target of the Exchange's proposal is to reduce risk for Clearing Members under the current give up model. Clearing firms make financial decisions based on risk and reward, and while it is generally in their beneficial interest to clear transactions for market participants in order to generate profit, it is the Exchange's understanding from SIFMA and clearing firms that the current process can create significant risk when the clearing firm can be given up on any market participant's transaction, even where there is no prior customer relationship or authorization for that designated transaction.

In the absence of a mechanism that governs a market participant's use of a Clearing Member's services, the Exchange's proposal may indirectly facilitate the ability of a Clearing Member to manage their existing relationships while continuing to allow market participant choice in broker execution services. While Clearing Members may compete with executing brokers for order flow, the Exchange does not believe this proposal imposes an undue burden on competition. Rather, the Exchange believes that the proposed rule change balances the need for Clearing Members to manage risks and allows them to address outlier behavior from executing brokers while still allowing freedom of choice to select an executing broker.

[11] 15 U.S.C. 78f(b).

[12] 15 U.S.C. 78f(b)(5).

[13] *See* Rule 209 (providing that each Member shall provide a letter of guarantee for the Member's trading activities on the Exchange from a Clearing Member in a form and manner prescribed by the Exchange). *See also* proposed Rule 507(f).

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate, it has become effective pursuant to 19(b)(3)(A) of the Act [14] and Rule 19b–4(f)(6) [15] thereunder.

A proposed rule change filed under Rule 19b–4(f)(6) normally does not become operative for 30 days after the date of the filing. However, Rule 19b–4(f)(6)(iii) [16] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. In its filing, MIAX PEARL requested that the Commission waive the 30-day operative delay. The Exchange represented that the proposal establishes a rule regarding the give up of a Clearing Member in order to help clearing firms manage risk while continuing to allow market participants choice in broker execution services. The Commission notes that it recently approved a substantially similar proposed rule change by Nasdaq Phlx LLC.[17] The Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest, as such waiver will provide transparency and operational certainty including through the use of a standardized give up process and would align the give up process with other option exchanges. Accordingly, the Commission waives the 30-day operative delay and designates the proposed rule change operative upon filing.[18]

[14] 15 U.S.C. 78s(b)(3)(A).

[15] 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.

[16] 17 CFR 240.19b–4(f)(6)(iii).

[17] *See supra* note 5.

[18] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

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–2019–04 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–2019–04. 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–PEARL–2019–04 and should be submitted on or before April 18, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[19]

Eduardo A. Aleman,

Deputy Secretary.

[FR Doc. 2019–05923 Filed 3–27–19; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 85399]

Securities Exchange Act of 1934

March 22, 2019.

In the Matter of: The BOX Exchange LLC; Regarding a Suspension of and Order Instituting Proceedings to Determine Whether to Approve or Disapprove a Proposed Rule Change to Amend the Fee Schedule on the BOX Market LLC Options Facility to Establish BOX Connectivity Fees for Participants and Non-Participants Who Connect to the BOX Network (File No. SR–BOX–2019–04); Order Granting BOX Exchange LLC's Petition for Review of Division of Trading and Markets Order by Delegated Authority Temporarily Suspending and Instituting Proceedings on SR–BOX–2019–04; Affirming the Division's Order; and Lifting the Automatic Stay.

I. Background

On February 13, 2019, BOX Exchange LLC (''BOX'' or the ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change (SR–BOX–2019–04) (''BOX 3'') to amend the fee schedule on the BOX Market LLC options facility to establish certain connectivity fees and reclassify its high speed vendor feed connection as a port fee. On February 26, 2019, the Division of Trading and Markets (''Division''), acting pursuant to delegated authority,[3] issued a notice of the proposed rule change and order temporarily suspending the proposed rule change pursuant to Section 19(b)(3)(C) of the Act and simultaneously instituting proceedings under Section 19(b)(2)(B) of the Act to determine whether to approve or

[19] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 17 CFR 200.30–3(a)(12), (57) and (58).

disapprove the proposed rule change.[4] The Commission received one comment letter on the proposal supporting the suspension and institution of proceedings.[5]

On February 26, 2019, pursuant to Rule 430 of the Commission's Rules of Practice,[6] the Exchange filed a notice of intention to petition for review of the Order Instituting Proceedings. Pursuant to Rule 431(e) of the Commission's Rules of Practice,[7] a notice of intention to petition for review results in an automatic stay of the action by delegated authority. On March 5, 2019, the Exchange filed a petition for review of the Order Instituting Proceedings.[8]

The proposed fees in the proposed rule change are identical to those proposed in two prior BOX proposed rule changes, both of which were similarly suspended by delegated authority.[9] The Forms 19b-4 for all three filings are substantively identical, except SR–BOX–2018–37 (''BOX 2'') and BOX 3 identify the broad categories of the Exchange's costs to offer connectivity services and state that the proposed fees would ''offset'' the Exchange's costs.

As with the instant proposal, the Exchange challenged the Division's delegated authority to suspend and institute proceedings on BOX 1.[10] On November 16, 2018, the Commission granted the Exchange's petition to review BOX 1 and discontinued the automatic stay of the delegated action.[11] On February 25, 2019, the Commission issued an order affirming the action by delegated authority in BOX 1.[12] The Order Affirming the BOX 1 OIP also re-opened the comment and rebuttal periods for BOX 1 to March 8, 2019 and March 15, 2019, respectively.

II. Discussion

Pursuant to Rule 431 of the Commission Rules of Practice,[13] the Exchange's Petition is granted. The Commission is not providing for a time period during which any party to the action or other person may file a written statement in support of or in opposition to the Order Instituting Proceedings.[14] The Commission believes that the issues raised by the Exchange's Petition were presented during the course of the Commission's review of the Exchange's petition to review the delegated action in BOX 1 temporarily suspending and instituting proceedings, in which two statements were received and considered by the Commission in its order affirming the delegated action.[15] The Commission therefore does not believe the Petition presents any new issues that would benefit from an additional period for written statement and believes that no time period for the filing of statements is necessary for this review.

The Commission's Rules of Practice set forth procedures for the review of actions made pursuant to delegated authority. Rule 431(a) provides that the Commission may affirm, reverse, modify, set aside, or remand for further proceedings, in whole or in part, any action made pursuant to authority delegated in 17 CFR 200.30–1 through 200.30–18.[16] For the reasons discussed below, the Commission affirms the temporary suspension of the proposed rule change and the institution of proceedings.

Instituting proceedings and keeping in place the temporary suspension provides a process for the Commission to further consider whether the proposed rule change is consistent with the statutory requirements applicable to a national securities exchange under the Act. In particular, this approach will allow the Commission to consider whether the proposed rule change satisfies the standards under the Act and the rules thereunder requiring, among other things, that (i) an exchange's rules provide for the equitable allocation of reasonable fees among members, issuers, and other persons using its facilities; (ii) do not permit unfair discrimination between customers, issuers, brokers, or dealers; and (iii) do not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.[17] Accordingly, the Order Instituting Proceedings properly concluded that it was appropriate in the public interest, for the protection of investors, and otherwise in furtherance of the purposes of the Act to temporarily suspend the proposed rule change and to institute proceedings to determine whether the proposed rule change should be approved or disapproved in view of the significant legal and policy issues raised by the proposal.[18]

Further, suspending the filing and instituting proceedings constitutes an interim step in the Commission's consideration of the substantive issues raised by the filing, and does not constitute a final disposition of the proposed rule change. As reflected in the Order Instituting Proceedings, the Commission has not reached any conclusions with respect to the issues involved.[19] To the contrary, the Commission sought additional comment with respect to the concerns raised by the filing,[20] and noted that the institution of proceedings provides the Commission the opportunity to more fully assess the issues raised.

As noted above, during the proceedings the Commission will consider whether the proposal satisfies the standards under the Act and the rules thereunder requiring, among other things, that an exchange's rules provide for the equitable allocation of reasonable fees among members, issuers, and other persons using its facilities; not permit unfair discrimination between customers, issuers, brokers or dealers; and do not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

Further, the Commission finds that it is in the public interest to lift the stay during the pendency of the Commission's review. The Commission believes the continued suspension of the proposed rule change while the Commission conducts proceedings to consider the Exchange's proposal will allow the Commission to further

[4] *See* Securities Exchange Act Release No. 85201, 84 FR 7146 (March 1, 2019) (''Order Instituting Proceedings'').

[5] *See* letter from Theodore R. Lazo, Managing Director and Associate General Counsel, Securities Industry and Financial Markets Association, to Vanessa Countryman, Acting Secretary, Commission, dated March 12, 2019.

[6] 17 CFR 201.430.

[7] 17 CFR 201.431(e).

[8] Petition for Review of Order Temporarily Suspending BOX Exchange LLC's Proposal to Amend the Fee Schedule on BOX Market LLC, dated March 5, 2019 (''Petition'').

[9] *See* Securities Exchange Act Release Nos. 84168 (September 17, 2018), 83 FR 47947 (September 21, 2018) (SR–BOX–2018–24) (''BOX 1'') and 84823 (December 14, 2018), 83 FR 65381 (December 20, 2018) (SR–BOX–2018–37) (''BOX 2'').

[10] *See* letter from Amir C. Tayrani, Partner, Gibson, Dunn & Crutcher LLP, to Brent J. Fields, Secretary, Commission, dated September 19, 2018; Petition for Review of Order Temporarily Suspending BOX Exchange LLC's Proposal to Amend the Fee Schedule on BOX Market LLC, dated September 26, 2018. The Commission notes that the Exchange did not challenge the Division's action by delegated authority to suspend and institute proceedings on BOX 2.

[11] *See* Securities Exchange Act Release No. 84614 (November 16, 2018), 83 FR 59432 (November 23, 2018).

[12] *See* Securities Exchange Act Release No. 85184, 84 FR 6842 (February 28, 2019) (''Order Affirming SR–BOX–2018–24 OIP'').

[13] 17 CFR 201.431.

[14] 17 CFR 201.100(c).

[15] *See* Order Affirming SR–BOX–2018–24 OIP, *supra* note 12. *See also* letters to Brent J. Fields, Secretary, Commission, from Lisa J. Fall, President, BOX, dated December 7, 2018 and Amir C. Tayrani, Gibson, Dunn & Crutcher LLP, dated December 10, 2018.

[16] *See* 17 CFR 201.431(a).

[17] *See* Order Instituting Proceedings, *supra* note 4, at 7150.

[18] *See id.*

[19] *See id.*

[20] *See id.*

consider the proposed fees' consistency with the Exchange Act without the risk of allowing a fee that is potentially inconsistent with the Exchange Act to remain in effect. The Commission also does not believe that lifting the stay precludes meaningful review of the Order Instituting Proceedings.

For the reasons stated above, it is hereby:

Ordered that the Exchange's petition for review of the Division's action, by delegated authority, temporarily suspending the proposed rule change and simultaneously instituting proceedings to determine whether to approve or disapprove the proposed rule change be *granted*; and

It is further *ordered* that the Division's Order Instituting Proceedings by delegated authority is hereby affirmed; and

It is further *ordered* that the automatic stay of delegated action pursuant to Commission Rule of Practice 431(e) [21] is hereby discontinued.

The order temporarily suspending such proposed rule change and instituting proceedings to determine whether to approve or disapprove such proposed rule change shall remain in effect.

By the Commission.

Eduardo A. Aleman,

Deputy Secretary.

[FR Doc. 2019–05912 Filed 3–27–19; 8:45 am]

BILLING CODE P

[21] 17 CFR 201.431(e).

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #15896 and #15897; NEBRASKA Disaster Number NE–00073]

Presidential Declaration of a Major Disaster for the State of Nebraska

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for the State of Nebraska (FEMA–4420–DR), dated 03/21/2019.

Incident: Severe Winter Storm, Straight-line Winds, and Flooding.

Incident Period: 03/09/2019 and continuing.

DATES: Issued on 03/21/2019.

Physical Loan Application Deadline Date: 05/20/2019.

Economic Injury (EIDL) Loan Application Deadline Date: 12/23/2019.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205–6734.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the President's major disaster declaration on 03/21/2019, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties (Physical Damage and Economic Injury Loans): Butler, Cass, Colfax, Dodge, Douglas, Nemaha, Sarpy, Saunders, Washington.

Contiguous Counties (Economic Injury Loans Only):

Nebraska: Burt, Cuming, Johnson, Lancaster, Otoe, Pawnee, Platte, Polk, Richardson, Seward, Stanton, York.

Iowa: Fremont, Harrison, Mills, Pottawattamie.

Missouri: Atchison, Holt.

The Interest Rates are:

	Percent
For Physical Damage:	
Homeowners with Credit Available Elsewhere	4.125
Homeowners without Credit Available Elsewhere	2.063
Businesses with Credit Available Elsewhere	8.000
Businesses without Credit Available Elsewhere	4.000
Non-Profit Organizations with Credit Available Elsewhere	2.750
Non-Profit Organizations without Credit Available Elsewhere	2.750
For Economic Injury:	
Businesses & Small Agricultural Cooperatives without Credit Available Elsewhere	4.000
Non-Profit Organizations without Credit Available Elsewhere	2.750

The number assigned to this disaster for physical damage is 158966 and for economic injury is 158970.

(Catalog of Federal Domestic Assistance Number 59008)

Rafaela Monchek,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. 2019–05942 Filed 3–27–19; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #15874 and #15875; MISSISSIPPI Disaster Number MS–00109]

Presidential Declaration Amendment of a Major Disaster for Public Assistance Only for the State of Mississippi

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 1.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for Public Assistance Only for the State of Mississippi (FEMA–4415–DR), dated 02/14/2019.

Incident: Severe Storms, Flooding, and Tornado.

Incident Period: 12/27/2018 through 12/28/2018.

DATES: Issued on 03/20/2019.

Physical Loan Application Deadline Date: 04/15/2019.

Economic Injury (EIDL) Loan Application Deadline Date: 11/14/2019.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205–6734.

SUPPLEMENTARY INFORMATION: The notice of the President's major disaster declaration for Private Non-Profit organizations in the State of Mississippi, dated 02/14/2019, is hereby amended to include the following areas as adversely affected by the disaster.

Primary Counties: Noxubee.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Number 59008)

Rafaela Monchek,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. 2019–05941 Filed 3–27–19; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #15884 and #15885; KANSAS Disaster Number KS–00122]

Presidential Declaration Amendment of a Major Disaster for Public Assistance Only for the State of Kansas

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 1.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for Public Assistance Only for the State of Kansas (FEMA–4417–DR), dated 02/25/2019.

Incident: Severe Storms, Straight-line Winds, and Flooding.

Incident Period: 10/04/2018 through 10/15/2018.

DATES: Issued on 03/20/2019.

Physical Loan Application Deadline Date: 04/26/2019.

Economic Injury (EIDL) Loan Application Deadline Date: 11/25/2019.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205–6734.

SUPPLEMENTARY INFORMATION: The notice of the President's major disaster declaration for Private Non-Profit organizations in the State of Kansas, dated 02/25/2019, is hereby amended to include the following areas as adversely affected by the disaster.

Primary Counties: Barber, Ottawa.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Number 59008)

Rafaela Monchek,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. 2019–05940 Filed 3–27–19; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice 10717]

Advisory Committee On International Economic Policy; Notice of Charter Renewal

The Department of State has renewed the charter of the Advisory Committee on International Economic Policy (''the Committee'').

The Committee provides advice on opportunities and challenges in international economic policy, including performance of the following functions: (a) To provide information and advice on the effective integration of economic interests into overall foreign policy; (b) to appraise the role of international economic institutions; and (c) to provide information and advice on the Department of State's role in advancing U.S. economic and commercial interests in the global economy. The Committee's activities are advisory only.

The Committee is established under the general authority of the Secretary of State and the Department of State as set forth in Title 22 of the United States Code, in particular Section 2656 of that Title and consistent with Federal Advisory Committee Act (5 U.S.C., Appendix). For additional information, contact Melike Yetken, Bureau of Economic and Business Affairs, at (202) 647–1817, or *YetkenMA@state.gov*.

Scott B. Ticknor,

Acting Designated Federal Officer, U.S. Department of State.

[FR Doc. 2019–05968 Filed 3–27–19; 8:45 am]

BILLING CODE 4710–AE–P

DEPARTMENT OF STATE

[Public Notice 10701]

30-Day Notice of Proposed Information Collection: Application for Consular Report of Birth Abroad of a Citizen of the United States of America

ACTION: Notice of request for public comment and submission to OMB of proposed collection of information.

SUMMARY: The Department of State has submitted the information collection described below to the Office of Management and Budget (OMB) for approval. In accordance with the Paperwork Reduction Act of 1995 we are requesting comments on this collection from all interested individuals and organizations. The purpose of this Notice is to allow 30 days for public comment.

DATES: Submit comments directly to the Office of Management and Budget (OMB) up to April 29, 2019.

ADDRESSES: Direct comments to the Department of State Desk Officer in the Office of Information and Regulatory Affairs at the Office of Management and Budget (OMB). You may submit comments by the following methods:

- *Email: oira_submission@omb.eop.gov.* You must include the DS form number, information collection title, and the OMB control number in the subject line of your message.
- *Fax:* 202–395–5806. Attention: Desk Officer for Department of State.

SUPPLEMENTARY INFORMATION:

- *Title of Information Collection:* Application for Consular Report of Birth Abroad of a Citizen of the United States of America.
- *OMB Control Number:* 1405–0011.
- *Type of Request:* Extension of a Currently Approved Collection.
- *Originating Office:* Bureau of Consular Affairs, Passport Services (CA/PPT).
- *Form Number:* DS–2029.
- *Respondents:* United States Citizens and Nationals.
- *Estimated Number of Respondents:* 73,647.
- *Estimated Number of Responses:* 73,647.
- *Average Time per Response:* 20 minutes.
- *Total Estimated Burden Time:* 24,549 hours.
- *Frequency:* On occasion.
- *Obligation to Respond:* Voluntary.

We are soliciting public comments to permit the Department to:

- Evaluate whether the proposed information collection is necessary for the proper functions of the Department.
- Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Please note that comments submitted in response to this Notice are public record. Before including any detailed personal information, you should be aware that your comments as submitted, including your personal information, will be available for public review.

Abstract of Proposed Collection

The DS–2029, Application for Consular Report of Birth Abroad of a Citizen of the United States of America, is used by citizens of the United States to report the birth of a child while overseas. The information collected on this form will be used to certify the acquisition of U.S. citizenship at birth of a person born abroad. 22 CFR 50.5–50.7 are important legal authorities that permit the Department to use this form.

Methodology

An application for a Consular Report of Birth is normally made in the consular district in which the birth occurred. The parent respondents will complete the form and present it to a United States Consulate or Embassy, who will examine the documentation and enter the information provided into the Department of State American

Citizen Services (ACS) electronic database.

Barry J. Conway,

Acting Deputy Assistant Secretary for Passport Services, Bureau of Consular Affairs, Department of State.

[FR Doc. 2019–05930 Filed 3–27–19; 8:45 am]

BILLING CODE 4710–06–P

SURFACE TRANSPORTATION BOARD

[Docket No. AB 1265X]

Lehigh Valley Rail Management, LLC—Abandonment Exemption—in Cambria County, PA

Lehigh Valley Rail Management, LLC (LVRM) has filed a verified notice of exemption under 49 CFR 1152 subpart F—*Exempt Abandonments* to abandon a line of railroad extending between milepost RJC 6.4 in Munster Township and milepost RJC 10.45189 in Ebensburg Borough, and between milepost 15.355 (RJC 10.45189) and milepost 16.934 in Cambria Township, in Cambria County, Pa. (the Line). The Line traverses U.S. Postal Service Zip Code 15931.

LVRM has certified that: (1) No local traffic has moved over the Line for at least two years; (2) because the Line is not a through line (it is stub-ended), there is no overhead traffic on the Line; (3) no formal complaint filed by a user of rail service on the Line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the Line either is pending with the Surface Transportation Board (Board) or any U.S. District Court or has been decided in favor of a complainant within the two-year period; and (4) the requirements at 49 CFR 1105.7 and 1105.8 (environment and historic report), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho,* 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) [1] has been received, this exemption will be effective on April 27, 2019, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[2] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[3] and interim trail use/rail banking requests under 49 CFR 1152.29 must be filed by April 8, 2019. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by April 17, 2019, with the Surface Transportation Board, 395 E Street SW, Washington, DC 20423–0001.

A copy of any petition filed with the Board should be sent to LVRM's representative, Eric M. Hocky, Clark Hill, PLC, One Commerce Square, 2005 Market Street, Suite 1000, Philadelphia, PA 19103.

If the verified notice contains false or misleading information, the exemption is void ab initio.

LVRM has filed a combined environmental and historic report that addresses the effects, if any, of the abandonment on the environment and historic resources. OEA will issue an environmental assessment (EA) by April 2, 2019. Interested persons may obtain a copy of the EA by writing to OEA, Surface Transportation Board, Washington, DC 20423–0001 or by calling OEA at (202) 245–0305. Assistance for the hearing impaired is available through the Federal Relay Service at (800) 877–8339. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), LVRM shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the Line. If consummation has not been effected by LVRM's filing of a notice of consummation by March 28, 2020, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available at *www.stb.gov.*

Decided: March 25, 2019.

By the Board, Allison C. Davis, Acting Director, Office of Proceedings.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. 2019–05936 Filed 3–27–19; 8:45 am]

BILLING CODE 4915–01–P

[1] The Board modified its OFA procedures effective July 29, 2017. Among other things, the OFA process now requires potential offerors, in their formal expression of intent, to make a preliminary financial responsibility showing based on a calculation using information contained in the carrier's filing and publicly available information. *See Offers of Financial Assistance,* EP 729 (STB served June 29, 2017); 82 FR 30,997 (July 5, 2017).

[2] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Office of Environmental Analysis (OEA) in its independent investigation) cannot be made before the exemption's effective date. *See Exemption of Out-of-Serv. Rail Lines,* 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[3] Each OFA must be accompanied by the filing fee, which currently is set at $1,800. *See* 49 CFR 1002.2(f)(25).

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2006–24278; FMCSA–2006–25854; FMCSA–2008–0355; FMCSA–2010–0203; FMCSA–2012–0050; FMCSA–2014–0379; FMCSA–2015–0323]

Qualification of Drivers; Exemption Applications; Epilepsy and Seizure Disorders

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of renewal of exemptions; request for comments.

SUMMARY: FMCSA announces its decision to renew exemptions for eight individuals from the requirement in the Federal Motor Carrier Safety Regulations (FMCSRs) that interstate commercial motor vehicle (CMV) drivers have ''no established medical history or clinical diagnosis of epilepsy or any other condition which is likely to cause loss of consciousness or any loss of ability to control a CMV.'' The exemptions enable these individuals who have had one or more seizures and are taking anti-seizure medication to continue to operate CMVs in interstate commerce.

DATES: Each group of renewed exemptions were applicable on the dates stated in the discussions below and will expire on the dates stated in the discussions below. Comments must be received on or before April 29, 2019.

ADDRESSES: You may submit comments identified by the Federal Docket Management System (FDMS) Docket No. FMCSA–2006–24278; FMCSA–2006–25854; FMCSA–2008–0355; FMCSA–2010–0203; FMCSA–2012–0050; FMCSA–2014–0379; FMCSA–2015–0323 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the

online instructions for submitting comments.

• *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.

• *Hand Delivery:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal Holidays.

• *Fax:* 1–202–493–2251.

To avoid duplication, please use only one of these four methods. See the ''Public Participation'' portion of the **SUPPLEMENTARY INFORMATION** section for instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: Ms. Christine A. Hydock, Chief, Medical Programs Division, 202–366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE, Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m., ET, Monday through Friday, except Federal holidays. If you have questions regarding viewing or submitting material to the docket, contact Docket Services, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Public Participation

A. Submitting Comments

If you submit a comment, please include the docket number for this notice (Docket No. FMCSA–2006–24278; FMCSA–2006–25854; FMCSA–2008–0355; FMCSA–2010–0203; FMCSA–2012–0050; FMCSA–2014–0379; FMCSA–2015–0323), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so that FMCSA can contact you if there are questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov,* put the docket number, FMCSA–2006–24278; FMCSA–2006–25854; FMCSA–2008–0355; FMCSA–2010–0203; FMCSA–2012–0050; FMCSA–2014–0379; FMCSA–2015–0323, in the keyword box, and click ''Search.'' When the new screen appears, click on the ''Comment Now!'' button and type your comment into the text box on the following screen. Choose whether you are submitting your comment as an individual or on behalf of a third party and then submit.

If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope.

FMCSA will consider all comments and material received during the comment period.

B. Viewing Documents and Comments

To view comments, as well as any documents mentioned in this notice as being available in the docket, go to *http://www.regulations.gov.* Insert the docket number, FMCSA–2006–24278; FMCSA–2006–25854; FMCSA–2008–0355; FMCSA–2010–0203; FMCSA–2012–0050; FMCSA–2014–0379; FMCSA–2015–0323, in the keyword box, and click ''Search.'' Next, click the ''Open Docket Folder'' button 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., ET, Monday through Friday, except Federal holidays.

C. Privacy Act

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy.*

II. Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption for up to five years if it finds such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption. The statute also allows the Agency to renew exemptions at the end of the five-year period. FMCSA grants exemptions from the FMCSRs for a two-year period to align with the maximum duration of a driver's medical certification.

The physical qualification standard for drivers regarding epilepsy found in 49 CFR 391.41(b)(8) states that a person is physically qualified to drive a CMV if that person has no established medical history or clinical diagnosis of epilepsy or any other condition which is likely to cause the loss of consciousness or any loss of ability to control a CMV.

In addition to the regulations, FMCSA has published advisory criteria to assist Medical Examiners in determining whether drivers with certain medical conditions are qualified to operate a CMV in interstate commerce. [49 CFR part 391, APPENDIX A TO PART 391—MEDICAL ADVISORY CRITERIA, section H. Epilepsy: § 391.41(b)(8), paragraphs 3, 4, and 5.]

The eight individuals listed in this notice have requested renewal of their exemptions from the epilepsy and seizure disorders prohibition in 49 CFR 391.41(b)(8), in accordance with FMCSA procedures. Accordingly, FMCSA has evaluated these applications for renewal on their merits and decided to extend each exemption for a renewable two-year period.

III. Request for Comments

Interested parties or organizations possessing information that would otherwise show that any, or all, of these drivers are not currently achieving the statutory level of safety should immediately notify FMCSA. The Agency will evaluate any adverse evidence submitted and, if safety is being compromised or if continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315, FMCSA will take immediate steps to revoke the exemption of a driver.

IV. Basis for Renewing Exemptions

In accordance with 49 U.S.C. 31136(e) and 31315, each of the eight applicants has satisfied the renewal conditions for obtaining an exemption from the epilepsy and seizure disorders prohibition. The eight drivers in this notice remain in good standing with the Agency, have maintained their medical monitoring and have not exhibited any medical issues that would compromise their ability to safely operate a CMV during the previous two-year exemption period. In addition, for Commercial Driver's License (CDL) holders, the Commercial Driver's License Information System (CDLIS) and the Motor Carrier Management Information System (MCMIS) are searched for crash and violation data. For non-CDL holders, the Agency reviews the driving records from the State Driver's Licensing Agency (SDLA). These factors provide an adequate basis for predicting each driver's ability to continue to safely operate a CMV in interstate

commerce. Therefore, FMCSA concludes that extending the exemption for each renewal applicant for a period of two years is likely to achieve a level of safety equal to that existing without the exemption.

As of January 1, 2019, and in accordance with 49 U.S.C. 31136(e) and 31315, the following individual has satisfied the renewal conditions for obtaining an exemption from the epilepsy and seizure disorders prohibition in the FMCSRs for interstate CMV drivers: Jordan M. Hyster (OH).

This driver was included in docket number FMCSA–2015–0323. The exemption is applicable as of January 1, 2019, and will expire on January 1, 2021.

As of January 7, 2019, and in accordance with 49 U.S.C. 31136(e) and 31315, the following individual has satisfied the renewal conditions for obtaining an exemption from the epilepsy and seizure disorders prohibition in the FMCSRs for interstate CMV drivers: Edgar Snapp (IN).

This driver was included in docket number FMCSA–2014–0379. The exemption is applicable as of January 7, 2019, and will expire on January 7, 2021.

In accordance with 49 U.S.C. 31136(e) and 31315, the following groups of drivers received renewed exemptions in the month of January and are discussed below.

As of January 15, 2019, and in accordance with 49 U.S.C. 31136(e) and 31315, the following six individuals have satisfied the renewal conditions for obtaining an exemption from the epilepsy and seizure disorders prohibition in the FMCSRs for interstate CMV drivers:

Daniel Forth (NY)
Steven L. Hunsaker (ID)
Brian J. Porter (PA)
Wayne C. Sorenson (MN)
Michael W. Thomas (KS)
Paul Warren (ME)

The drivers were included in docket numbers FMCSA–2006–24278; FMCSA–2006–25854; FMCSA–2008–0355; FMCSA–2010–0203; FMCSA–2012–0050. Their exemptions are applicable as of January 15, 2019, and will expire on January 15, 2021.

V. Conditions and Requirements

The exemptions are extended subject to the following conditions: (1) Each driver must remain seizure-free and maintain a stable treatment during the two-year exemption period; (2) each driver must submit annual reports from their treating physicians attesting to the stability of treatment and that the driver has remained seizure-free; (3) each driver must undergo an annual medical examination by a certified Medical Examiner, as defined by 49 CFR 390.5; and (4) each driver must provide a copy of the annual medical certification to the employer for retention in the driver's qualification file, or keep a copy of his/her driver's qualification file if he/she is self-employed. The driver must also have a copy of the exemption when driving, for presentation to a duly authorized Federal, State, or local enforcement official. The exemption will be rescinded if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315.

VI. Preemption

During the period the exemption is in effect, no State shall enforce any law or regulation that conflicts with this exemption with respect to a person operating under the exemption.

VII. Conclusion

Based on its evaluation of the eight exemption applications, FMCSA renews the exemptions of the aforementioned drivers from the epilepsy and seizure disorders prohibition in 49 CFR 391.41(b)(8). In accordance with 49 U.S.C. 31136(e) and 31315, each exemption will be valid for two years unless revoked earlier by FMCSA.

Issued on: March 20, 2019.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2019–05948 Filed 3–27–19; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2013–0121; FMCSA–2013–0123; FMCSA–2014–0106; FMCSA–2012–0154; FMCSA–2015–0328]

Qualification of Drivers; Exemption Applications; Hearing

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of renewal of exemptions; request for comments.

SUMMARY: FMCSA announces its decision to renew exemptions for eleven individuals from the hearing requirement in the Federal Motor Carrier Safety Regulations (FMCSRs) for interstate commercial motor vehicle (CMV) drivers. The exemptions enable these hard of hearing and deaf individuals to continue to operate CMVs in interstate commerce.

DATES: Each group of renewed exemptions were applicable on the dates stated in the discussions below and will expire on the dates stated in the discussions below. Comments must be received on or before April 29, 2019.

ADDRESSES: You may submit comments identified by the Federal Docket Management System (FDMS) Docket No. FMCSA–2013–0121; FMCSA–2013–0123; FMCSA–2014–0106; FMCSA–2012–0154; FMCSA–2015–0328 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal Holidays.
- *Fax:* 1–202–493–2251.

To avoid duplication, please use only one of these four methods. See the ''Public Participation'' portion of the **SUPPLEMENTARY INFORMATION** section for instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: Ms. Christine A. Hydock, Chief, Medical Programs Division, 202–366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE, Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m., ET, Monday through Friday, except Federal holidays. If you have questions regarding viewing or submitting material to the docket, contact Docket Services, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Public Participation

A. Submitting Comments

If you submit a comment, please include the docket numbers for this notice (Docket No. FMCSA–2012–0154; FMCSA–2013–0121; FMCSA–2013–0123; FMCSA–2014–0106; FMCSA–2015–0328), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online or by fax, mail, or hand

delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so that FMCSA can contact you if there are questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov,* put the docket numbers, FMCSA–2012–0154; FMCSA–2013–0121; FMCSA–2013–0123; FMCSA–2014–0106; FMCSA–2015–0328, in the keyword box, and click ''Search.'' When the new screen appears, click on the ''Comment Now!'' button and type your comment into the text box on the following screen. Choose whether you are submitting your comment as an individual or on behalf of a third party and then submit.

If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope.

FMCSA will consider all comments and material received during the comment period.

B. Viewing Documents and Comments

To view comments, as well as any documents mentioned in this notice as being available in the docket, go to *http://www.regulations.gov.* Insert the docket numbers, FMCSA–2013–0121; FMCSA–2013–0123; FMCSA–2014–0106; FMCSA–2012–0154; FMCSA–2015–0328, in the keyword box, and click ''Search.'' Next, click the ''Open Docket Folder'' button 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., ET, Monday through Friday, except Federal holidays.

C. Privacy Act

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy.*

II. Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption for five years if it finds such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption. The statute also allows the Agency to renew exemptions at the end of the five-year period. FMCSA grants exemptions from the FMCSRs for a two-year period to align with the maximum duration of a driver's medical certification.

The physical qualification standard for drivers regarding hearing found in 49 CFR 391.41(b)(11) states that a person is physically qualified to drive a CMV if that person first perceives a forced whispered voice in the better ear at not less than 5 feet with or without the use of a hearing aid or, if tested by use of an audiometric device, does not have an average hearing loss in the better ear greater than 40 decibels at 500 Hz, 1,000 Hz, and 2,000 Hz with or without a hearing aid when the audiometric device is calibrated to American National Standard (formerly ASA Standard) Z24.5–1951.

49 CFR 391.41(b)(11) was adopted in 1970, with a revision in 1971 to allow drivers to be qualified under this standard while wearing a hearing aid, 35 FR 6458, 6463 (April 22, 1970) and 36 FR 12857 (July 3, 1971).

III. Request for Comments

Interested parties or organizations possessing information that would otherwise show that any, or all, of these drivers are not currently achieving the statutory level of safety should immediately notify FMCSA. The Agency will evaluate any adverse evidence submitted and, if safety is being compromised or if continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136 and 31315, FMCSA will take immediate steps to revoke the exemption of a driver.

IV. Basis for Renewing Exemptions

In accordance with 49 U.S.C. 31136(e) and 31315, each of the eleven applicants has satisfied the renewal conditions for obtaining an exemption from the hearing requirement. The eleven drivers in this notice remain in good standing with the Agency. In addition, for Commercial Driver's License (CDL) holders, the Commercial Driver's License Information System (CDLIS) and the Motor Carrier Management Information System (MCMIS) are searched for crash and violation data. For non-CDL holders, the Agency reviews the driving records from the State Driver's Licensing Agency (SDLA). These factors provide an adequate basis for predicting each driver's ability to continue to safely operate a CMV in interstate commerce. Therefore, FMCSA concludes that extending the exemption for these drivers for a period of two years is likely to achieve a level of safety equal to that existing without the exemption.

As of January 3, 2019, and in accordance with 49 U.S.C. 31136(e) and 31315, Daniel Grossinger (MD) has satisfied the renewal conditions for obtaining an exemption from the hearing requirement in the FMCSRs for interstate drivers.

This driver was included in docket number FMCSA–2013–0121. The exemption is applicable as of January 3, 2019, and will expire on January 3, 2021.

As of January 10, 2019, and in accordance with 49 U.S.C. 31136(e) and 31315, the following three individuals have satisfied the renewal conditions for obtaining an exemption from the hearing requirement in the FMCSRs for interstate CMV drivers:

Christopher McKenzie (TX); Kimothy McLoed (GA); and James Weir (WA).

The drivers were included in docket numbers FMCSA–2014–0106 and FMCSA–2013–0123. Their exemptions are applicable as of January 10, 2019, and will expire on January 10, 2021.

As of January 15, 2019, and in accordance with 49 U.S.C. 31136(e) and 31315, the following four individuals have satisfied the renewal conditions for obtaining an exemption from the hearing requirement in the FMCSRs for interstate CMV drivers:

Tyjuan Davis (VA)
Jerry Jones (TX)
Gerson Raminez (MT)
Justin Trethewey (FL)

The drivers were included in docket number FMCSA–2012–0154. Their exemptions are applicable as of January 15, 2019, and will expire on January 15, 2021.

As of January 22, 2019, and in accordance with 49 U.S.C. 31136(e) and 31315, the following three individuals have satisfied the renewal conditions for obtaining an exemption from the hearing requirement in the FMCSRs for interstate CMV drivers:

Heath A. Focken (NE); Jaymes A. Harr (IA); and Tyra Peterson (IA).

The drivers were included in docket number FMCSA–2015–0328. Their exemptions are applicable as of January 22, 2019, and will expire on January 22, 2021.

V. Conditions and Requirements

The exemptions are extended subject to the following conditions: (1) Each driver must report any crashes or accidents as defined in 49 CFR 390.5; and (2) report all citations and convictions for disqualifying offenses under 49 CFR part 383 and 49 CFR 391 to FMCSA; and (3) each driver prohibited from operating a motorcoach or bus with passengers in interstate commerce. The driver must also have a copy of the exemption when driving, for presentation to a duly authorized Federal, State, or local enforcement official. In addition, the exemption does not exempt the individual from meeting the applicable CDL testing requirements. Each exemption will be valid for two years unless rescinded earlier by FMCSA. The exemption will be rescinded if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136 and 31315.

VI. Preemption

During the period the exemption is in effect, no State shall enforce any law or regulation that conflicts with this exemption with respect to a person operating under the exemption.

VII. Conclusion

Based upon its evaluation of the eleven exemption applications, FMCSA renews the exemptions of the aforementioned drivers from the hearing requirement in 49 CFR 391.41 (b)(11). In accordance with 49 U.S.C. 31136(e) and 31315, each exemption will be valid for two years unless revoked earlier by FMCSA.

Issued on: March 20, 2019.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2019–05947 Filed 3–27–19; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2019–0070]

Parts and Accessories Necessary for Safe Operation; Laydon Composites Ltd. Application for an Exemption

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of application for exemption; request for comments.

SUMMARY: FMCSA requests public comment on an application for exemption from Laydon Composites Ltd. (Laydon) to allow motor carriers to operate commercial motor vehicles (CMVs) that are equipped with Laydon's OptiTail™ aerodynamic device with rear identification lamps and rear clearance lamps that are mounted lower than currently permitted by the Agency's regulations. The Federal Motor Carrier Safety Regulations (FMCSRs) require rear identification lamps and rear clearance lamps to be located ''as close as practicable to the top of the vehicle.'' While the OptiTail™ aerodynamic device is currently mounted slightly below the roof of the vehicle, Laydon states that this offset prevents the device from delivering the maximum available fuel economy benefit as opposed to mounting it flush with the top of the vehicle which may block the visibility of the rear identification lamps and rear clearance lamps. Laydon believes that locating the rear identification lamps and rear clearance lamps lower on the vehicle, on a horizontal plane with other required lamps (stop, turn, and tail lamps) as is done on a flatbed trailer or an intermodal chassis, will maintain a level of safety that is equivalent to, or greater than, the level of safety achieved without the exemption.

DATES: Comments must be received on or before April 29, 2019.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) Docket ID FMCSA–2019–0070 using any of the following methods:

- *Website: http://www.regulations.gov.* Follow the instructions for submitting comments on the Federal electronic docket site.
- *Fax:* 1–202–493–2251.
- *Mail:* Docket Management Facility, U.S. Department of Transportation, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590–0001.
- *Hand Delivery:* Ground Floor, Room W12–140, DOT Building, 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m. e.t., Monday–Friday, except Federal holidays.

Instructions: All submissions must include the Agency name and docket number for this notice. For detailed instructions on submitting comments and additional information on the exemption process, see the ''Public Participation'' heading below. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. Please see the ''Privacy Act'' heading for further information.

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov* or to Room W12–140, DOT Building, 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy.*

Public participation: The *http://www.regulations.gov* website is generally available 24 hours each day, 365 days each year. You may find electronic submission and retrieval help and guidelines under the ''help'' section of the *http://www.regulations.gov* website as well as the DOT's *http://docketsinfo.dot.gov* website. If you would like notification that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgment page that appears after submitting comments online.

FOR FURTHER INFORMATION CONTACT: Mr. Jose Cestero, Vehicle and Roadside Operations Division, Office of Carrier, Driver, and Vehicle Safety, MC–PSV, (202) 366–5541, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue SE, Washington, DC 20590–0001.

SUPPLEMENTARY INFORMATION:

Background

Under Agency regulations, FMCSA must publish a notice of each exemption request in the **Federal Register** (49 CFR 381.315(a)). The Agency must provide the public with an opportunity to inspect the information relevant to the application, including any safety analyses that have been conducted. The Agency must also provide an opportunity for public comment on the request.

The Agency reviews the safety analyses and the public comments and determines whether granting the exemption would likely achieve a level of safety equivalent to or greater than the level that would be achieved by the current regulation (49 CFR 381.305).

The decision of the Agency must be published in the **Federal Register** (49 CFR 381.315(b)). If the Agency denies the request, it must state the reason for

doing so. If the decision is to grant the exemption, the notice must specify the person or class of persons receiving the exemption and the regulatory provision or provisions from which an exemption is granted. The notice must specify the effective period of the exemption (up to 5 years) and explain the terms and conditions of the exemption. The exemption may be renewed (49 CFR 381.315(c) and 49 CFR 381.300(b)).

Laydon Application for Exemption

Laydon, on behalf of motor carriers utilizing its OptiTail™ aerodynamic devices, applied for an exemption from 49 CFR 393.11 to allow rear identification lamps and rear clearance lamps to be mounted lower than currently permitted by the Agency's regulations. A copy of the application is included in the docket referenced at the beginning of this notice.

Table 1 of § 393.11, ''Required lamps and reflectors on commercial motor vehicles,'' specifies the requirements for lamps, reflective devices and associated equipment by the type of CMV. All CMVs manufactured on or after December 25, 1968, must, at a minimum, meet the applicable requirements of Federal Motor Vehicle Safety Standard (FMVSS) No. 108, ''Lamps, reflective devices, and associated equipment,'' in effect at the time of manufacture of the vehicle. Rear identification lamps must be mounted as close as practicable to the top of the vehicle. One lamp must be as close as practicable to the vertical centerline and one on each side of the center lamp with the lamp centers spaced not less than 6 inches or more than 12 inches apart, and all on the same level. One rear clearance lamp must be located on each side of the vertical centerline of the vehicle to indicate overall width, both of which must be on the same level and as high as practicable.

Laydon is wholly owned by WABCO Europe BVBA, with headquarters in Brussels, Belgium. Laydon and WABCO have developed a trailer collapsible boat tail technology which improves the overall tractor trailer aerodynamic efficiency. The OptiTail™ systems, both the fully auto and manual versions, are currently installed to the rear doors of a CMV trailer such that the upper panels are below the trailer's identification and clearance lamps. Laydon notes that installing the upper panels below the identification lights—about 1.25 to 3 inches below the trailer roof—is not the ideal aerodynamic condition, and that the upper panels could yield better aerodynamic flow characteristics if they were mounted flush with the trailer roof. However, mounting the upper panel of the OptiTail™ system flush with the roof will block the full view of the trailer identification and clearance lights, in violation of section 393.11 of the FMCSRs.

Laydon is requesting the exemption to allow trailers using its OptiTail™ system to have the required identification and clearance lights mounted lower than currently permitted, and at the same required location for flatbed trailers and intermodal chassis. Laydon states that while it has conducted (1) computer simulation analysis, (2) scaled wind tunnel testing, and (3) full scale environmental testing of the flush roof mounted configuration, the temporary exemption is necessary to complete actual performance testing in full environmental conditions by various fleet operators located in multiple areas of the U.S. and with different standard travel routes.

In its application, Laydon states:

> The safety impact of the proposed 49 CFR 393.11 exemption would be similar to existing CMVs already in operation, provided the relocation or addition of lower level identification and clearance lamps are installed on the CMV. Assuming additional lamps are installed lower on the trailer and just not relocated, the improved OptiTail™, auto version (AutoTail), would still have the existing centerline identification lamp and both clearance lamps visible when the trailer is traveling at slow speeds. Our AutoTail is self-deploying and self-retracting. The AutoTail will remain retracted until the tractor reaches a speed of approximately 40 mph and remain open until the tractor reduces speed to approximately 6 mph. The AutoTail will continue to remain closed as long as the trailer does not exceed 40 mph. As a result the current centerline identification and clearance lights would be visible when the tractor trailer is stopped at a traffic light or other slow speed road condition. We are not advocating that this is sufficient to allow the exemption without additional clearance and identification lamps installed lower on the trailer. All CMV trailers have conspicuity materials installed across the width of the trailer. These reflex reflectors will still be visible with the OptiTail™ deployed or retracted. Both the two clearance and three identification lights should be relocated or additionally added to the approximate horizontal plane with other rear lamps. These are generally regarded as the brake and running lamps. This location is the same as found on some CMVs, such as flatbed trailers, with or without ''curtain sides'' and intermodal chassis trailers. Now is the time for all good men to come to the aid of their country.

Laydon states that without the exemption, it will be unable to establish and verify the maximum fuel economy and environmental impacts of the OptiTail™ system, which could have long term impacts on meeting future greenhouse gas or California Air Resources Board fuel economy requirements.

Request for Comments

In accordance with 49 U.S.C. 31315 and 31136(e), FMCSA requests public comment from all interested persons on Laydon's application for an exemption from 49 CFR 393.11. All comments received before the close of business on the comment closing date indicated at the beginning of this notice will be considered and will be available for examination in the docket at the location listed under the **ADDRESSES** section of this notice.

Comments received after the comment closing date will be filed in the public docket and will be considered to the extent practicable. In addition to late comments, FMCSA will also continue to file, in the public docket, relevant information that becomes available after the comment closing date. Interested persons should continue to examine the public docket for new material.

Issued on: March 20, 2019.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2019–05946 Filed 3–27–19; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2019–0006]

Qualification of Drivers; Exemption Applications; Vision

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of applications for exemption; request for comments.

SUMMARY: FMCSA announces receipt of applications from nine individuals for an exemption from the vision requirement in the Federal Motor Carrier Safety Regulations (FMCSRs) to operate a commercial motor vehicle (CMV) in interstate commerce. If granted, the exemptions will enable these individuals to operate CMVs in interstate commerce without meeting the vision requirement in one eye.

DATES: Comments must be received on or before April 29, 2019.

ADDRESSES: You may submit comments identified by the Federal Docket Management System (FDMS) Docket No. FMCSA–2019–0006 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the

online instructions for submitting comments.

- *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal Holidays.
- *Fax:* 1–202–493–2251.

To avoid duplication, please use only one of these four methods. See the ''Public Participation'' portion of the **SUPPLEMENTARY INFORMATION** section for instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: Ms. Christine A. Hydock, Chief, Medical Programs Division, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE, Room W64–224, Washington, DC 20590–0001. Office hours are 8:30 a.m. to 5 p.m., ET, Monday through Friday, except Federal holidays. If you have questions regarding viewing or submitting material to the docket, contact Docket Services, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Public Participation

A. Submitting Comments

If you submit a comment, please include the docket number for this notice (Docket No. FMCSA–2019–0006), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so that FMCSA can contact you if there are questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov,* put the docket number, FMCSA–2019–0006, in the keyword box, and click ''Search.'' When the new screen appears, click on the ''Comment Now!'' button and type your comment into the text box on the following screen. Choose whether you are submitting your comment as an individual or on behalf of a third party and then submit.

If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope.

FMCSA will consider all comments and material received during the comment period.

B. Viewing Documents and Comments

To view comments, as well as any documents mentioned in this notice as being available in the docket, go to *http://www.regulations.gov.* Insert the docket number, FMCSA–2019–0006, in the keyword box, and click ''Search.'' Next, click the ''Open Docket Folder'' button 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., ET, Monday through Friday, except Federal holidays.

C. Privacy Act

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy.*

II. Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the FMCSRs for a five-year period if it finds such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption. The statute also allows the Agency to renew exemptions at the end of the five-year period. FMCSA grants exemptions from the FMCSRs for a two-year period to align with the maximum duration of a driver's medical certification.

The nine individuals listed in this notice have requested an exemption from the vision requirement in 49 CFR 391.41(b)(10). Accordingly, the Agency will evaluate the qualifications of each applicant to determine whether granting an exemption will achieve the required level of safety mandated by statute.

The physical qualification standard for drivers regarding vision found in 49 CFR 391.41(b)(10) states that a person is physically qualified to drive a CMV if that person has distant visual acuity of at least 20/40 (Snellen) in each eye without corrective lenses or visual acuity separately corrected to 20/40 (Snellen) or better with corrective lenses, distant binocular acuity of at least 20/40 (Snellen) in both eyes with or without corrective lenses, field of vision of at least 70° in the horizontal Meridian in each eye, and the ability to recognize the colors of traffic signals and devices showing standard red, green, and amber.

In July 1992, the Agency first published the criteria for the Vision Waiver Program, which listed the conditions and reporting standards that CMV drivers approved for participation would need to meet (Qualification of Drivers; Vision Waivers, 57 FR 31458, July 16, 1992). The current Vision Exemption Program was established in 1998, following the enactment of amendments to the statutes governing exemptions made by § 4007 of the Transportation Equity Act for the 21st Century (TEA–21), Public Law 105–178, 112 Stat. 107, 401 (June 9, 1998). Vision exemptions are considered under the procedures established in 49 CFR part 381 subpart C, on a case-by-case basis upon application by CMV drivers who do not meet the vision standards of 49 CFR 391.41(b)(10).

To qualify for an exemption from the vision requirement, FMCSA requires a person to present verifiable evidence that he/she has driven a commercial vehicle safely with the vision deficiency for the past three years. Recent driving performance is especially important in evaluating future safety, according to several research studies designed to correlate past and future driving performance. Results of these studies support the principle that the best predictor of future performance by a driver is his/her past record of crashes and traffic violations. Copies of the studies may be found at Docket Number FMCSA–1998–3637.

FMCSA believes it can properly apply the principle to monocular drivers, because data from the Federal Highway Administration's (FHWA) former waiver study program clearly demonstrated the driving performance of experienced monocular drivers in the program is better than that of all CMV drivers collectively (See 61 FR 13338, 13345, March 26, 1996). The fact that experienced monocular drivers demonstrated safe driving records in the waiver program supports a conclusion that other monocular drivers, meeting the same qualifying conditions as those required by the waiver program, are also likely to have adapted to their vision deficiency and will continue to operate safely.

The first major research correlating past and future performance was done in England by Greenwood and Yule in 1920. Subsequent studies, building on that model, concluded that crash rates for the same individual exposed to certain risks for two different time periods vary only slightly (See Bates and Neyman, University of California Publications in Statistics, April 1952). Other studies demonstrated theories of predicting crash proneness from crash history coupled with other factors. These factors—such as age, sex, geographic location, mileage driven and conviction history—are used every day by insurance companies and motor vehicle bureaus to predict the probability of an individual experiencing future crashes (See Weber, Donald C., ''Accident Rate Potential: An Application of Multiple Regression Analysis of a Poisson Process,'' Journal of American Statistical Association, June 1971). A 1964 California Driver Record Study prepared by the California Department of Motor Vehicles concluded that the best overall crash predictor for both concurrent and nonconcurrent events is the number of single convictions. This study used three consecutive years of data, comparing the experiences of drivers in the first two years with their experiences in the final year.

III. Qualifications of Applicants

Clay A. Applegarth

Mr. Applegarth, 49, had an enucleation of his left eye due to ocular melanoma in 1994. The visual acuity in his right eye is 20/20 and in his left eye, no light perception. Following an examination in 2018, his optometrist stated, ''It is my medical opinion that Clay has safely operated commercial vehicles with this condition for many years and that his vision is sufficient to perform the driving tasks required to operate a commercial vehicle.'' Mr. Applegarth reported that he has driven tractor-trailer combinations for 25 years, accumulating 3.75 million miles. He holds a Class A CDL from Colorado. His driving record for the last three years shows no crashes and one conviction for a moving violation in a CMV; drove a defective/unsafe vehicle.

Anthony J. Cesternino

Mr. Cesternino, 72, had an enucleation of his left eye due to a traumatic incident in childhood. The visual acuity in his right eye is 20/20, and in his left eye, no light perception. Following an examination in 2019, his optometrist stated, ''I certify that in my medical opinion, Mr. Cesternino has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Cesternino reported that he has driven tractor-trailer combinations for 47 years, accumulating 5.4 million miles. He holds a Class A CDL from Virginia. His driving record for the last three years shows no crashes and no convictions for moving violations in a CMV.

Steven S. Criss

Mr. Criss, 38, has had amblyopia in his left eye since birth. The visual acuity in his right eye is 20/20, and in his left eye, 20/80. Following an examination in 2018, his optometrist stated, ''In my opinion, the reduced visual acuity in Steven's left eye does not prohibit him from operating a commercial vehicle . . . I would anticipate no further functional problems due to this condition and have no reservations about recommending that he be granted the privilege to operate a commercial vehicle.'' Mr. Criss reported that he has driven straight trucks for ten years, accumulating 350,000 miles. He holds an operator's license from Florida. His driving record for the last three years shows no crashes and no convictions for moving violations in a CMV.

Terrence H. Flick II

Mr. Flick, 34, has had a macular scar in his left eye since childhood. The visual acuity in his right eye is 20/20, and in his left eye, light perception. Following an examination in 2018, his optometrist stated, ''Mr. Flick does have sufficient vision to drive and operate a commercial vehicle safely.'' Mr. Flick reported that he has driven straight trucks for 15 years, accumulating 150,000 miles. He holds an operator's license from Illinois. His driving record for the last three years shows no crashes and no convictions for moving violations in a CMV.

Ismael Gonzalez

Mr. Gonzalez, 59, has had amblyopia in his left eye since childhood. The visual acuity in his right eye is 20/20, and in his left eye, 20/400. Following an examination in 2018, his ophthalmologist stated, ''In my medical opinion, Ismael Gonzalez has sufficient vision to perform driving tasks required to operate a commercial vehicle.'' Mr. Gonzalez reported that he has driven straight trucks for 25 years, accumulating 650,000 miles. He holds a Class B CDL from New Jersey. His driving record for the last three years shows no crashes and no convictions for moving violations in a CMV.

Philip E. Henderson

Mr. Henderson, 78, had a retinal detachment in his right eye in 2008. The visual acuity in his right eye is counting fingers, and in his left eye, 20/20. Following an examination in 2018, his ophthalmologist stated, ''In my medical opinion, Mr. Philip Henderson has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Henderson reported that he has driven straight trucks for six years, accumulating 36,000 miles, and tractor-trailer combinations for 49 years, accumulating 4.4 million miles. He holds a Class A CDL from Missouri. His driving record for the last three years shows one crash and one conviction for a moving violation in a CMV; improper backing of CMV.

Brian S. Metheny

Mr. Metheny, 44, has had amblyopia in his right eye since childhood. The visual acuity in his right eye is 20/200, and in his left eye, 20/20. Following an examination in 2018, his ophthalmologist stated, ''In my opinion [sic] he has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Metheny reported that he has driven straight trucks for three years, accumulating 180,000 miles. He holds a Class A CDL from Pennsylvania. His driving record for the last three years shows no crashes and no convictions for moving violations in a CMV.

Roger L. Ridder

Mr. Ridder, 56, has complete loss of vision in his right eye due to a retinal detachment in 2015. The visual acuity in his right eye is no light perception, and in his left eye, 20/20. Following an examination in 2018, his optometrist stated, ''In my professional opinion, Mr. Roger Ridder has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Ridder reported that he has driven straight trucks for 35 years, accumulating 105,000 miles, and tractor-trailer combinations for 30 years, accumulating 60,000 miles. He holds an operator's license from Kansas. His driving record for the last three years shows no crashes and no convictions for moving violations in a CMV.

Cody R.E. Zeigler

Mr. Zeigler, 26, has had optic neuropathy in his right eye since 2015. The visual acuity in his right eye is 20/100, and in his left eye, 20/25. Following an examination in 2018, his optometrist stated, ''I certify in my medical opinion you [sic] have sufficient vision in your left eye to

perform the driving tasks required to operate a commercial vehicle as stated in the FMCSA visual standards.'' Mr. Zeigler reported that he has driven straight trucks for six years, accumulating 120,000 miles. He holds an operator's license from Pennsylvania. His driving record for the last three years shows no crashes and no convictions for moving violations in a CMV.

IV. Request for Comments

In accordance with 49 U.S.C. 31136(e) and 31315, FMCSA requests public comment from all interested persons on the exemption petitions described in this notice. We will consider all comments and material received before the close of business on the closing date indicated in the dates section of the notice.

Issued on: March 20, 2019.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2019–05950 Filed 3–27–19; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2019–0069]

Parts and Accessories Necessary for Safe Operation; Application for an Exemption From Charles Machine Works Inc.

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of application for exemption; request for comments.

SUMMARY: The Federal Motor Carrier Safety Administration (FMCSA) requests public comment on Charles Machine Works, Inc.'s (CMW) application for an exemption from the Agency's prohibition against the use of gravity or syphon-fed fuel systems for auxiliary equipment installed on or used in connection with commercial motor vehicles (CMVs). CMW believes that the use of gravity or syphon-fed fuel systems for auxiliary equipment that operates only when the CMV is parked would maintain a level of safety that is equivalent to, or greater than, the level that it would achieve without the requested exemption.

DATES: Comments must be received on or before April 29, 2019.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) Docket ID FMCSA–2019–0069 using any of the following methods:

- *Website: http://www.regulations.gov.* Follow the instructions for submitting comments on the Federal electronic docket site.
- *Fax:* 1–202–493–2251.
- *Mail:* Docket Management Facility, U.S. Department of Transportation, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590–0001.
- *Hand Delivery:* Ground Floor, Room W12–140, DOT Building, 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m. e.t., Monday–Friday, except Federal holidays.

Instructions: All submissions must include the Agency name and docket number for this notice. For detailed instructions on submitting comments and additional information on the exemption process, see the ''Public Participation'' heading below. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. Please see the ''Privacy Act'' heading for further information.

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov* or to Room W12–140, DOT Building, 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy.*

Public participation: The *http://www.regulations.gov* website is generally available 24 hours each day, 365 days each year. You may find electronic submission and retrieval help and guidelines under the ''help'' section of the *http://www.regulations.gov* website as well as the DOT's *http://docketsinfo.dot.gov* website. If you would like notification that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgment page that appears after submitting comments online.

FOR FURTHER INFORMATION CONTACT: Mr. Luke W. Loy, Vehicle and Roadside Operations Division, Office of Carrier, Driver, and Vehicle Safety, MC–PSV, (202) 366–0676, *Luke.Loy@dot.gov,* Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue SE, Washington, DC 20590–0001.

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 31315 and 31136(e), FMCSA may grant exemptions from the FMCSRs. Pursuant to the implementing regulations, FMCSA must publish a notice of each exemption request in the **Federal Register** (49 CFR 381.315(a)). The Agency must provide the public with an opportunity to inspect the information relevant to the application, including any safety analyses that have been conducted. The Agency must also provide an opportunity for public comment on the request.

The Agency reviews the safety analyses and the public comments and determines whether granting the exemption would likely achieve a level of safety equivalent to or greater than the level that would be achieved by the current regulation (49 CFR 381.305).

The decision of the Agency must be published in the **Federal Register** (49 CFR 381.315(b)). If the Agency denies the request, it must state the reason for doing so. If the decision is to grant the exemption, the notice must specify the person or class of persons receiving the exemption and the regulatory provision or provisions from which an exemption is granted. The notice must specify the effective period of the exemption (up to 5 years) and explain the terms and conditions of the exemption. The exemption may be renewed (49 CFR 381.315(c) and 49 CFR 381.300(b)).

CMW's Application for Exemption

CMW has applied for an exemption from 49 CFR 393.65(d) to allow the use of gravity or syphon fed fuel systems for auxiliary equipment installed on or used in connection with CMVs that operate only when the CMV is not operating on the highway. A copy of the application is included in the docket referenced at the beginning of this notice.

Section 393.65 of the FMCSRs prescribes certain requirements that are applicable to all CMV fuel systems. The requirements in this section apply to systems for containing and supplying fuel for the operation of (1) motor vehicles or (2) auxiliary equipment installed on, or used in connection with, motor vehicles. Section 393.65(d) prohibits a fuel system from supplying fuel by gravity or syphon feed directly to the carburetor or injector.

CMW is a family of companies focused on the installation,

maintenance, rehabilitation, and replacement of underground pipe and cable for the telecom, oil, electricity, gas, water, and wastewater industries. Its family of companies includes Ditch Witch®, Subsite® Electronics, DW/TXS®, HammerHead®, Radius® HDD, American Augers®, Trencor® and MTI® Equipment. CMW designs, manufactures and sells a range of products to cover the full life-cycle of underground pipe and cable, including horizontal directional drills, walk and ride trenchers, utility loaders, vacuum excavators, asset locators, pipe rehabilitation solutions and after-market tools.

Some of the equipment designed and manufactured by CMW utilize small, commercially available internal combustion engines to power auxiliary equipment that is permanently mounted on a CMV. CMW states that while auxiliary equipment that is permanently mounted to CMVs is considered part of the CMV and subject to the requirements of 49 CFR 393.65(d), it ''has identified that currently there is uneven roadside enforcement with regard to the use of gravity fed fuel tanks on auxiliary equipment installed on or used in connection with commercial motor vehicles.''

In support of its application, CMW states:

> Most small commercially available internal combustion engines used on auxiliary equipment are equipped from the factory with gravity fed fuel tanks attached to the engine . . . The cost of modifying these small internal combustion engines to remove the fuel tank from the engine and to re-engineer the fuel delivery system to use a fuel pump to pump fuel from the now removed fuel tank to the internal combustion engine requires electrical wiring to be run from the commercial motor vehicle to operate the fuel pump. Manufacturers who have gone to this additional expense, question the reasoning of removing the fuel tank from above the engine and placing it beside the engine and equipping the system with a fuel pump to transfer fuel from the tank to the engine. Since the auxiliary equipment only operates when the CMV is not operating on the highway there does not seem to be any legitimate safety reason for this requirement. A review of previous **Federal Register** notices does not describe why this requirement was added for fuel systems for auxiliary equipment on commercial motor vehicles, when this equipment is not operating while the CMV is operating on the highway.

The exemption would permit CMW and all other CMV operators to utilize auxiliary equipment with gravity fed fuel systems when the CMV is not operating on the highway. CMW believes that granting the temporary exemption will maintain a level of safety that is equivalent to or greater than the level of safety achieved without the exemption because the auxiliary equipment will not be operating while the CMV is operating on the highway. CMW ''believes that because the engine on the auxiliary equipment will not be operating while the CMV is traveling on the highway, so the potential risk of gravity fed fuel systems leaking on a hot or operating engine will not be possible, thereby eliminating the possibility of fire from the auxiliary equipment.''

Request for Comments

In accordance with 49 U.S.C. 31315 and 31136(e), FMCSA requests public comment from all interested persons on CMW's application for an exemption from the requirements of 49 CFR 393.65(d). All comments received before the close of business on the comment closing date indicated at the beginning of this notice will be considered and will be available for examination in the docket at the location listed under the **ADDRESSES** section of this notice. Comments received after the comment closing date will be filed in the public docket and will be considered to the extent practicable. In addition to late comments, FMCSA will also continue to file, in the public docket, relevant information that becomes available after the comment closing date. Interested persons should continue to examine the public docket for new material.

Issued on: March 21, 2019.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2019–05952 Filed 3–27–19; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Dockets No. FMCSA–2017–0243, FMCSA–2017–0296, FMCSA–2017–0337, FMCSA–2017–0340, FMCSA–2017–0342, FMCSA–2017–0356, FMCSA–2017–0361, FMCSA–2017–0373, FMCSA–2018–0003, FMCSA–2017–0336]

Hours of Service (HOS) of Drivers; Applications for Exemption From the Electronic Logging Device Rule

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of final disposition: Denial of applications for exemption; correction.

SUMMARY: The Federal Motor Carrier Safety Administration published its decision in the **Federal Register** of December 7, 2018, to deny 10 applicants an exemption from the hours-of-service electronic logging device rule. Due to an error, the name of the first applicant listed in that publication was twice misstated. This notice makes it clear that the name of the first applicant is Power & Communication Contractors Association.

DATES: Applicable on December 7, 2018.

FOR FURTHER INFORMATION CONTACT: For information concerning this notice, contact Ms. Pearlie Robinson, FMCSA Driver and Carrier Operations Division; Office of Carrier, Driver and Vehicle Safety Standards; Telephone: (202) 366–4225. Email: *MCPSD@dot.gov.* If you have questions on viewing or submitting material to the docket, contact Docket Services, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

Correction

In the **Federal Register** of December 7, 2018, correct page 63194 as follows: In the first column, correct the name of the first applicant listed in the Summary second sentence to read ''Power & Communication Contractors Association.'' In the third column, correct the subheading to read, ''Power & Communication Contractors Association.''

Issued on: March 20, 2019.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2019–05951 Filed 3–27–19; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2018–0320]

Qualification of Drivers; Exemption Applications; Narcolepsy

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of denial.

SUMMARY: FMCSA announces its decision to deny the application from one individual who requested an exemption from the Federal Motor Carrier Safety Regulations (FMCSRs) prohibiting operation of a commercial motor vehicle (CMV) in interstate commerce by persons with either a clinical diagnosis of epilepsy or any other condition that is likely to cause a loss of consciousness or any loss of ability to control a CMV, or a mental, nervous, organic, or functional disease or psychiatric disorder likely to interfere with his/her ability to drive a commercial motor vehicle safely.

FOR FURTHER INFORMATION CONTACT: Ms. Christine A. Hydock, Chief, Medical Programs Division, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE, Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m., ET, Monday through Friday, except Federal holidays. If you have questions regarding viewing or submitting material to the docket, contact Docket Services, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Public Participation

A. Viewing Documents and Comments

To view comments, as well as any documents mentioned in this notice as being available in the docket, go to *http://www.regulations.gov.* Insert the docket number, FMCSA–2018–0320, in the keyword box, and click ''Search.'' Next, click the ''Open Docket Folder'' button 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., ET, Monday through Friday, except Federal holidays.

B. Privacy Act

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy.*

II. Background

On November 27, 2018, FMCSA published a FR notice (83 FR 60953) announcing receipt of an application from one individual with a diagnosis of narcolepsy and requested comments from the public. This individual requested an exemption from 49 CFR 391.41(b)(8), which prohibits operation of a CMV in interstate commerce by persons with either a clinical diagnosis of epilepsy or any other condition that is likely to cause a loss of consciousness or any loss of ability to control a CMV, and 49 CFR 391.41(b)(9) a mental, nervous, organic, or functional disease or psychiatric disorder likely to interfere with his/her ability to drive a CMV safely. The public comment period closed on December 27, 2018. Four comments were received in response to this proceeding. Of the four comments received, two were duplicate comments received from the applicant, and one comment was received from a private citizen. These commenters were in support of granting an exemption based on the applicant's driving history. The fourth commenter, the American Academy of Sleep Medicine (AASM) commented that the Agency should not grant an exemption for narcolepsy and outlined nine specific reasons for their non-support. Details of the AASM's comments may be found in the docket under the comments section.

FMCSA has evaluated the eligibility of this applicant and concluded that granting the exemption would not provide a level of safety that would be equivalent to, or greater than, the level of safety that would be obtained by complying with the regulation 49 CFR 391.41(b)(8) and (b)(9).

In reaching the decision to deny these exemption requests, the Agency considered information from the 2009 Evidence Report, ''Narcolepsy (with and without cataplexy) and Commercial Motor Vehicle Driver Safety [1],'' and the January 2010 Medical Review Board (MRB) Recommendation [2] that individuals with narcolepsy be ineligible for a commercial driver's license, even with treatment. A copy of the Evidence Report is included in the docket.

III. Basis for Exemption Determination

Under 49 U.S.C. 31136(e) and 31315(b), FMCSA may grant an exemption from the FMCSRs if the exemption is likely to achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption.

The Agency's decision regarding these exemption applications is based on an individualized assessment of each applicant's medical information provided by the applicant, available medical and scientific data concerning narcolepsy, and public comments received. As discussed in the background section, the Agency considered information from the 2009 Evidence Report, ''Narcolepsy (with and without cataplexy) and Commercial Motor Vehicle Driver Safety,'' and the January 2010 recommendation that individuals with narcolepsy be ineligible for a commercial driver's license, even with treatment.

FMCSA has published advisory criteria to assist medical examiners in determining whether drivers with certain medical conditions are qualified to operate a CMV in interstate commerce. [49 CFR part 391, APPENDIX A TO PART 391—MEDICAL ADVISORY CRITERIA, section H. Epilepsy: § 391.41(b)(8), paragraphs 3, 4, and 5.] The advisory criteria for 49 CFR 391.41(b)(8), indicates that if an individual has had a sudden episode of a non-epileptic seizure or loss of consciousness of unknown cause that did not require anti-seizure medication, the decision whether that person's condition is likely to cause the loss of consciousness or loss of ability to control a CMV should be made on an individual basis by the medical examiner in consultation with the treating physician.

In those individual cases where a driver had a seizure or an episode of loss of consciousness that resulted from a known medical condition (*e.g.,* drug reaction, high temperature, acute infectious disease, dehydration, or acute metabolic disturbance), certification should be deferred until the driver has fully recovered from that condition, has no existing residual complications, and is not taking anti-seizure medication.

The advisory criteria for 49 CFR 391.41(b)(9), indicates that a variety of functional disorders can cause drowsiness, dizziness, confusion, weakness or paralysis that may lead to incoordination, inattention, loss of functional control and susceptibility to accidents while driving.

Narcolepsy is a chronic neurological disorder caused by autoimmune destruction of hypocretin-producing neurons inhibiting the brain's ability to regulate sleep-wake cycles normally. Persons with narcolepsy experience frequent excessive daytime sleepiness, comparable to how non-narcoleptics feel after 24 to 48 hours of sleep deprivation, as well as disturbed nocturnal sleep, which is often confused with insomnia. See National Institutes of Health (NIH) Narcolepsy Fact Sheet at *www.ninds.nih.gov/disorders/narcolepsy/detail_narcolepsy.htm.*

The 2009 Evidence Report, ''Narcolepsy (with and without cataplexy) and Commercial Motor Vehicle Driver Safety,'' addressed whether or not individuals with narcolepsy are at an increased risk for motor vehicle crashes; whether or not currently recommended treatments for narcolepsy reduce the risk for motor vehicle crashes; and the impact of various medication therapies for narcolepsy on driver safety.

[1] Evidence Report: Narcolepsy (with and without cataplexy) and Commercial Motor Vehicle Driver Safety; October 6, 2009.

[2] Medical Review Board Meeting; January 6, 2010; *www.mrb.fmcsa.dot.gov/documents/Final_Jan_6_2010_MRB_Meeting_Summary.pdf.*

The evidence report reviewed studies from the available literature and evaluated outcomes on measures of Excessive Daytime Sleepiness (EDS), cataplexy, event rate, measures of cognitive and psychomotor function, and driving performance. The currently available direct and indirect evidence support the contention that drivers with narcolepsy are at an increased risk for a motor vehicle crash when compared to otherwise similar individuals who do not have the disorder. The direct evidence from three crash studies conducted of non-CMV drivers showed that individuals with narcolepsy are at an increased risk for a crash compared to individuals who do not have narcolepsy. The indirect evidence from studies of driving tests and driving simulation examined factors associated with simulated driving outcomes such as driving performance, tracking error, fewer correct responses, and more instances of going out of bounds compared to healthy controls. While there are limitations in the quality of the studies that examined direct crash risk, both the direct and indirect studies showed a strong effect size and statistical significance. The American Academy of Sleep Medicine (AASM) and the European Federation of Neurological Societies recommend modafinil as the first treatment option and methylphenidate as the second treatment option. The AASM also recommends amphetamine, methamphetamine, or dextroamphetamine as alternative treatments. During literature searches, no studies that directly examined the impact of treatment with modafinil, armodafinil, sodium oxybate (used with narcolepsy with cataplexy), or anti-depressants on crash risk or driving performance were identified. Therefore, conclusions regarding treatment with these medications on crash risk and driving performance could not be made.

Currently available evidence suggests that amphetamines and/or methylphenidate are effective in improving symptoms of EDS in individuals with narcolepsy (quality of studies range from ''moderate to low''). However, these improvements do not result in levels of daytime sleepiness that can be considered to be normal in the vast majority of individuals. Therefore, conclusions regarding to the impact of treatment with amphetamines, methylphenidate, or other related stimulant drugs on cognitive and psychomotor function among individuals with narcolepsy could not be made.

In January 2010, the FMCSA's MRB recommended that individuals with narcolepsy be ineligible for a commercial driver's license, even with treatment.

IV. Conclusion

The Agency has determined that the available medical and scientific literature and research provides insufficient data to enable the Agency to conclude that granting these exemptions would achieve a level of safety equivalent to, or greater than, the level of safety maintained without the exemption. Therefore, the applicant, Terry L. Curtner (IL), has been denied an exemption from the physical qualification standards in 49 CFR 391.41(b)(8) and (b)(9):

The applicant has, prior to this notice, received a letter of final disposition regarding his exemption request. The decision letter fully outlined the basis for the denial and constitutes final action by the Agency. The applicant's information published today summarizes the Agency's recent denials as required under 49 U.S.C. 31315(b)(4).

Issued on: March 20, 2019.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2019–05949 Filed 3–27–19; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

[Docket No. PHMSA–2018–0113; Notice No. 2018–23]

Hazardous Materials: Notice of Public Meetings in 2019 for International Standards on the Transport of Dangerous Goods

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), Department of Transportation (DOT).

ACTION: Notice of 2019 public meetings.

SUMMARY: This notice announces that PHMSA will host four public meetings during 2019 in advance of certain international meetings. For each of these meetings, PHMSA will solicit public input on current proposals. The first meeting will be held in preparation to the International Civil Aviation Organization's (ICAO) Dangerous Goods Panel (DGP) Working Group 19 meeting (WG/19) being held April 1–5, 2019, in Montreal, Canada. The second meeting will be held in preparation to the 55th session of the United Nations Sub-Committee of Experts on the Transport of Dangerous Goods (UNSCOE TDG) being held July 1–5, 2019, in Geneva, Switzerland. The third meeting will be held in preparation to the 27th meeting of the ICAO DGP (DGP/27) being held September 9–20, 2019, in Montreal, Canada. Finally, the fourth meeting will be held in preparation to the 56th session of the UNSCOE TDG being held December 2–11, 2019, in Geneva, Switzerland.

Time and Location: Each public meeting will take place approximately two weeks preceding the international meeting at DOT Headquarters, West Building, 1200 New Jersey Avenue SE, Washington, DC 20590–0001. Specific information for each meeting will be posted when available on the PHMSA website at *https://www.phmsa.dot.gov/international-program/international-program-overview* under ''Upcoming Events.'' This information will include the public meeting date, time, conference call-in number, and details for advanced registration.

FOR FURTHER INFORMATION CONTACT: Steven Webb or Aaron Wiener, International Program Office of Hazardous Materials Safety, Department of Transportation, Washington, DC 20590, (202) 366–8553.

SUPPLEMENTARY INFORMATION:

The purpose of PHMSA's public meetings is to allow the public a chance to give input on the current meeting proposals.

The 55th and 56th sessions of the UNSCOE TDG will represent the first and second meetings scheduled for the 2019–2020 biennium. The UNSCOE TDG will consider proposals for the 22nd Revised Edition of the *United Nations Recommendations on the Transport of Dangerous Goods: Model Regulations* (Model Regulations), which may be implemented into relevant domestic, regional, and international regulations starting January 1, 2023. Copies of working documents, informal documents, the agenda, and the post-meeting final report may be obtained from the United Nations Transport Division's website at *http://www.unece.org/trans/danger/danger.html.*

The ICAO WG/19 and DGP/27 meetings will represent the second and third meetings of the 2018–2019 biennium. The ICAO DGP will consider proposals for the 2021–2022 edition of the *Technical Instructions for the Safe Transport of Dangerous Goods by Air* (Doc 9284). Copies of working papers, information papers, the agenda, and the post-meeting final report may be obtained from the ICAO DGP website at *https://www.icao.int/safety/DangerousGoods/Pages/DGPMeetings.aspx.*

Signed on March 22, 2019, at Washington, DC.

William S. Schoonover,

Associate Administrator for Hazardous Materials Safety, Pipeline and Hazardous Materials Safety Administration.

[FR Doc. 2019–05892 Filed 3–27–19; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[Docket No. DOT–OST–2015–0194]

Fast Track Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery

AGENCY: Office of the Secretary (OST), Department of Transportation (DOT).

ACTION: Notice and request for comments on revision of a previously approved ICR.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Department of Transportation's (DOT) Office of the Secretary (OST) announces its plan to submit the Information Collection Request (ICR) described below to the Office of Management and Budget (OMB) for its review and approval and invites public comment. 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, the Department of Transportation (DOT) seeks a revision to a fast track generic clearance information collection request already approved by OMB. OST requests revision of ICR with OMB Control Number: 2105–0573 as described below.

DATES: Comments on this notice must be received by May 28, 2019.

ADDRESSES: Your comments should be identified by Docket No. DOT–OST–2015–0194 and may be submitted through one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* 1–202–493–2251.
- *Mail or Hand Delivery:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

All written comments will be available for public inspection on *Regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Habib Azarsina, Office of the Chief Information Officer, Office of the Secretary, U.S. Department of Transportation, 1200 New Jersey Avenue SE, Washington, DC 20590, 202–366–1965 (Voice), 202–366–7870 (Fax), or *habib.azarsina@dot.gov* (Email).

SUPPLEMENTARY INFORMATION:

Title: Fast Track Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery.

Abstract: The information collection activity will garner qualitative customer and stakeholder feedback in an efficient, timely manner, in accordance with the Department'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 insight into customer or stakeholder perceptions, opinions, 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 Department of Transportation and its customers and stakeholders. It will also allow feedback to contribute directly to the improvement of program management. Feedback or information collected under this generic clearance will provide useful information, but it will not yield data that can be generalized to the overall population.

The Department seeks a revision to a fast track generic clearance information collection request already approved by OMB. Existence of Fast Track option for conducting surveys has caused a sudden increase in number of surveys. OST has already used the 2000 burden hours previously approved. OST requests increasing the total burden hours to 60,000.

The Department will submit a collection for approval under this generic clearance if it meets the following conditions:

- The collections are voluntary.
- The collections are low-burden for respondents (based on considerations of total burden hours, total number of respondents, or burden-hours per respondent) and are low-cost for both the respondents and the Federal Government.
- The collections are noncontroversial and do not raise issues of concern to other Federal agencies.
- Any collection is targeted to the solicitation of opinions from respondents who have experience with the program or may have experience with the program in the near future.
- Personally identifiable information (PII) is collected only to the extent necessary and is not retained.
- Information gathered is intended to be used only internally for general service improvement and program management purposes and is not intended for release outside of the Department (if released, the Department must indicate the qualitative nature of the information).

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 to 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.

Type of Review: Revision of a previously approved ICR.

Affected Public: Individuals and households, businesses and organizations, State, Local or Tribal Governments.

Estimated Number of Respondents: 240,000.

Estimated Annual Responses: 80,000.

Estimated Annual Burden Hours: 20,000 hours.

Frequency: One-time requirement.

Annual burden hours = (80,000 responses) × (15 minutes) = 1,200,000 min = 20,000 hours.

Total burden hours for 3 years = 20,000 × 3 = 60,000 hours.

Total respondents = 80,000 (each year) × 3 = 240,000.

Issued in Washington, DC.

Habib Azarsina,

OST Paperwork Reduction Act Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 2019–05973 Filed 3–27–19; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF THE TREASURY

Alcohol and Tobacco Tax and Trade Bureau

[Docket No. TTB–2019–0001]

Proposed Information Collections; Comment Request (No. 73)

AGENCY: Alcohol and Tobacco Tax and Trade Bureau (TTB); Treasury.

ACTION: Notice and request for comments.

SUMMARY: As part of our continuing effort to reduce paperwork and respondent burden, and as required by the Paperwork Reduction Act of 1995, we invite comments on the proposed or continuing information collections listed below in this notice.

DATES: We must receive your written comments on or before May 28, 2019.

ADDRESSES: As described below, you may send comments on the information collections described in this document using the ''*Regulations.gov*'' online comment form for this document, or you may send written comments via U.S. mail or hand delivery. We no longer accept public comments via email or fax.

- *Internet:* To submit comments online, use the comment form for this document posted within Docket No. TTB–2019–0001 on the ''*Regulations.gov*'' e-rulemaking website at *https://www.regulations.gov;*
- *U.S. Mail:* Send comments to the Paperwork Reduction Act Officer, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street NW, Box 12, Washington, DC 20005.
- *Hand Delivery/Courier:* Delivery comments to the Paper Reduction Act Officer, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street NW, Suite 400, Washington, DC 20005.

Please submit separate comments for each specific information collection described in this document. You must reference the information collection's title, form or recordkeeping requirement number, and OMB control number (if any) in your comment.

You may view copies of this document, the information collections described in it and any associated instructions, and all comments received in response to this document within Docket No. TTB–2019–0001 at *https://www.regulations.gov.* A link to that docket is posted on the TTB website at *https://www.ttb.gov/forms/comment-on-form.shtml.* You may also obtain paper copies of this document, the information collections described in it and any associated instructions, and any comments received in response to this document by contacting Michael Hoover at the addresses or telephone number shown below.

FOR FURTHER INFORMATION CONTACT: Michael Hoover, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street NW, Box 12, Washington, DC 20005; 202–453–1039, ext. 135; or *informationcollections@ttb.gov* (please do not submit comments to this email address).

SUPPLEMENTARY INFORMATION:

Request for Comments

The Department of the Treasury and its Alcohol and Tobacco Tax and Trade Bureau (TTB), as part of their continuing effort to reduce paperwork and respondent burden, invite the general public and other Federal agencies to comment on the proposed or continuing information collections described below in this notice, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Comments submitted in response to this notice will be included or summarized in our request for Office of Management and Budget (OMB) approval of the relevant information collection. All comments are part of the public record and subject to disclosure. Please do not include any confidential or inappropriate material in your comments.

We invite comments on: (a) Whether this information collection is necessary for the proper performance of the agency's functions, including whether the information has practical utility; (b) the accuracy of the agency's estimate of the information collection's burden; (c) ways to enhance the quality, utility, and clarity of the information collected; (d) ways to minimize the information collection's burden on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide the requested information.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information has a valid OMB control number.

Information Collections Open for Comment

Currently, we are seeking comments on the following forms, letterhead applications or notices, recordkeeping requirements, questionnaires, or surveys:

OMB Control No. 1513–0010

Title: Formula and Process for Wine.

TTB Form Number: TTB F 5120.29.

Abstract: Under the authority of the Internal Revenue Code (IRC) at 26 U.S.C. 5361, 5362, and 5386–5388, TTB regulations in 27 CFR parts 24 and 26 require persons who intend to produce special natural wine, agricultural wine, other than standard wine, or nonbeverage wine to obtain TTB's prior approval of the formulas by which such products will be made. Such persons may file formula approval requests using TTB F 5120.29, which describes the type of product and the formula and process by which it will be made. TTB uses the collected information to ensure compliance with Federal law, including ensuring that nonbeverage wines withdrawn free of tax under 26 U.S.C. 5362(d) are rendered unfit for beverage use.

Current Actions: TTB is submitting this information collection for extension purposes only, and there are no changes to the collection or its related form. However, due to changes in agency estimates, TTB is increasing the average number of responses submitted annually by each respondent and the estimated total annual burden for this information collection.

Type of Review: Extension of a currently-approved collection.

Affected Public: Businesses or other for-profits.

Estimated Annual Burden

- *Number of Respondents:* 30.
- *Average Responses per Respondent:* 5 (on occasion).
- *Number of Responses:* 150.
- *Average Per-Response Burden:* 2 hours.
- *Total Burden:* 300 hours.

OMB Control No. 1513–0011

Title: Formula and/or Process for Articles Made with Specially Denatured Spirits.

TTB Form Number: TTB F 5150.19.

Abstract: In general, under the IRC at 26 U.S.C. 5214, distilled spirits used in the manufacture of nonbeverage articles are not subject to Federal excise tax, and, under 26 U.S.C. 5273, persons who intend to produce such articles using specially denatured distilled spirits (SDS) must obtain prior approval of their formulas and manufacturing processes. For medicinal preparations and flavoring extracts intended for internal human use, that section also prohibits SDS from remaining in the finished articles. Therefore, the TTB

regulations in 27 CFR part 20 require persons to file formula and process approval requests, using TTB F 5150.19, for articles made with SDS. To protect the revenue and ensure compliance with the IRC and TTB regulations, TTB personnel examine the collected information to verify that the described articles are nonbeverage products made in compliance with 26 U.S.C. 5273. TTB field personnel also may compare manufacturing records to approved formulas to verify that such articles are being made in accordance with their approved formulas and processes.

Current Actions: TTB is submitting this information collection for extension purposes only, and there are no changes to the collection, its related form, or its estimated burden.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses and other for-profits.

Estimated Annual Burden

- *Number of Respondents:* 1,132.
- *Average Responses per Respondent:* 1 (on occasion).
- *Number of Responses:* 1,132.
- *Average Per-Response Burden:* 44 minutes.
- *Total Burden:* 830 hours.

OMB Control No. 1513–0012

Title: User's Report of Denatured Spirits.

TTB Form Number: TTB F 5150.18.

Abstract: The IRC at 26 U.S.C. 5214 allows the tax-free withdrawal of denatured distilled spirits from a distilled spirits plant (DSP), and, at 26 U.S.C. 5275, it requires persons procuring, dealing in, or using specially denatured (SDS), or recovering specially denatured or completely denatured distilled spirits, to maintain records and file reports as the Secretary of the Treasury (Secretary) may prescribe by regulation. The TTB regulations in 27 CFR part 20 require persons who use or recover SDS or articles, or who use recovered completely denatured spirits or articles, to file a report once annually using TTB F 5150.18 to account for their use of such denatured spirits in specific approved formulas during the period July 1 through June 30. The regulations also require such persons to file a final report when discontinuing business. The collected information is necessary to protect the revenue as it allows TTB to detect diversion of tax-free denatured spirits to taxable proposes by users of such spirits. TTB also uses the required information to ensure users of such spirits comply with Federal law and regulations.

Current Actions: TTB is submitting this information collection for extension purposes only, and there are no changes to the collection or its related form. However, due to change in agency estimates, TTB is increasing slightly the number of annual respondents, responses, and burden hours reported for this information collection.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses and other for-profits.

Estimated Annual Burden

- *Number of Respondents:* 3,600.
- *Average Responses per Respondent:* 1 (once annually).
- *Number of Responses:* 3,600.
- *Average per Response Burden:* 18 minutes.
- *Total Burden:* 1,080 hours.

OMB Control No. 1513–0014

Title: Power of Attorney.

TTB Form Number: TTB F 5000.8.

Abstract: The IRC at 26 U.S.C. 6061 provides that any return, statement, or other document submitted under the IRC's provisions must be signed in accordance with the forms or regulations prescribed by the Secretary. Also, the Federal Alcohol Administration Act (FAA Act) at 27 U.S.C. 204(c) authorizes the Secretary to prescribe the manner and form of applications for basic permits issued under the Act. Under those authorities, the TTB regulations require individuals signing documents and forms filed with TTB on behalf of an applicant or principal to have specific authority to do so. As such, applicants and principals use TTB F 5000.8 to delegate such authority to a designated individual and to report that delegation to TTB. Many documents and forms submitted to TTB are legally binding and have penalties for omissions or falsification, and TTB uses the collected information to determine who legally represents an applicant or permittee doing business with the agency.

Current Actions: TTB is submitting this information collection for extension purposes only, and there are no changes to the collection, its related form, or its estimated burden.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses or other for-profits.

Estimated Annual Burden

- *Number of Respondents:* 5,000.
- *Average Responses per Respondent:* 2 (on occasion).
- *Number of Responses:* 10,000.
- *Average per Response Burden:* 19.5 minutes.
- *Total Burden:* 3,250 hours.

OMB Control No. 1513–0024

Title: Report—Export Warehouse Proprietor.

TTB Form Number: TTB F 5220.4.

Abstract: In general, under chapter 52 of the IRC, tobacco products and cigarette papers and tubes manufactured in, or imported into, the United States are subject to Federal excise tax while tobacco products and cigarette papers and tubes removed for export, and all processed tobacco, are not subject to that tax. Additionally, the IRC at 26 U.S.C. 5722 requires export warehouse proprietors to provide reports regarding such articles, in such form, at such times, and for such periods as the Secretary prescribes by regulation. Under that authority, the TTB regulations in 27 CFR part 44 require export warehouse proprietors to file a monthly operations report using TTB F 5220.4, listing the amount of tobacco products, cigarette papers and tubes, and processed tobacco received, removed, lost, or unaccounted for during a given month. The collected information is necessary to protect the revenue as it allows TTB to detect diversion of those untaxed articles to taxable uses. These reports also allow TTB to verify compliance with Federal laws and regulations related to the removal and export of such articles.

Current Actions: TTB is submitting this information collection for extension purposes only, and there are no changes to the collection, its related form, or its estimated burden.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses or other for-profits.

Estimated Annual Burden

- *Number of Respondents:* 82.
- *Average Responses per Respondent:* 12 (monthly).
- *Number of Responses:* 984.
- *Average per Response Burden:* 1 hours.
- *Total Burden:* 984 hours.

OMB Control No. 1513–0029

Title: Certificate of Tax Determination—Wine.

TTB Form Number: TTB F 5120.20.

Abstract: The IRC at 26 U.S.C. 5062 authorizes drawback (refund) of the Federal excise tax on distilled spirits and wines exported from the United States, under regulations prescribed by the Secretary regarding evidence of the product's tax payment or determination and exportation. Under that authority, the TTB regulations in 27 CFR part 28 require drawback claims filed by wine

exporters to be accompanied by the producer's or bottler's certification, filed on TTB F 5120.20, that the listed wines were produced in the United States and taxpaid or determined upon withdrawal. The collected information is necessary to protect the revenue as it allows TTB to prevent the payment of unverified drawback claims.

Current Actions: TTB is submitting this information collection for extension purposes only, and there are no changes to the collection, its related form, or its estimated burden.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses or other for-profits.

Estimated Annual Burden

- *Number of Respondents:* 30.
- *Average Responses per Respondent:* 33.33 (on occasion).
- *Number of Responses:* 1,000.
- *Average per Response Burden:* 30 minutes.
- *Total Burden:* 500 hours.

OMB Control No. 1513–0039

Title: Distilled Spirits Plants Warehousing Records (TTB REC 5110/02), and Monthly Report of Storage Operations.

TTB Form Number: TTB F 5110.11.

TTB Recordkeeping Number: REC 5110/02.

Abstract: The IRC at 26 U.S.C. 5207 requires DSP proprietors to maintain records and submit reports of their production, storage, denaturation, and processing activities as required under regulations prescribed by the Secretary. Under that IRC authority, the TTB regulations in 27 CFR part 19 require DSP proprietors to keep certain records regarding their warehousing operations. Those regulations also require DSP proprietors to report a summary of their storage operations, based on the required records, to TTB on a monthly basis using form TTB F 5110.11. Because, under 26 U.S.C. 5005(c), a DSP proprietor is liable for the Federal excise tax for all distilled spirits stored on the plant's premises, the required records and report are necessary to protect the revenue. The required records and reports also allow TTB to ensure compliance with Federal law and regulations.

Current Actions: TTB is submitting this information collection for extension purposes only, and there are no changes to the collection or its related form. However, due to continued growth in the distilled spirits industry, TTB is increasing the number of annual respondents, responses, and burden hours reported for this information collection.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses and other for-profits.

Estimated Annual Burden

- *Number of Respondents:* 2,300.
- *Average Responses per Respondent:* 12 (monthly).
- *Number of Responses:* 27,600.
- *Average per Response Burden:* 2 hours (1 hour of recordkeeping and 1 hour of reporting).
- *Total Burden:* 55,200 hours.

OMB Control No. 1513–0049

Title: Distilled Spirits Plant Denaturation Records (TTB REC 5110/04), and Monthly Report of Processing Operations.

TTB Form Number: TTB F 5110.43.

TTB Recordkeeping Number: REC 5110/04.

Abstract: The IRC, at 26 U.S.C. 5207, requires distilled spirits plant (DSP) proprietors to maintain records and submit reports of their production, storage, denaturation, and processing activities, and, at 26 U.S.C. 5214, it authorizes the withdrawal of denatured distilled spirits from a DSP free of tax for certain specified uses, all subject regulations prescribed by the Secretary of the Treasury. Under those IRC authorities, the TTB regulations in 27 CFR part 19 require DSP proprietors to keep certain records regarding their production, loss, receipt, transfer, and withdrawal of denatured spirits. Using the required records, those regulations also require DSP proprietors to report a summary of their daily denaturing (processing) activities to TTB on a monthly basis using form TTB F 5110.43. Because denatured spirits may be removed from a DSP free of tax, a full accounting of a DSP's denaturation operations is necessary to protect the revenue. The required records and reports allow TTB to detect and prevent diversion of denatured spirits to taxable uses, ensure compliance with Federal law and regulations, and compile industry statistics.

Current Actions: TTB is submitting this information collection for extension purposes only, and there are no changes to the collection or its related form. However, due to continued growth in the distilled spirits industry, TTB is increasing the number of annual respondents, responses, and burden hours reported for this information collection.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses and other for-profits.

Estimated Annual Burden

- *Number of Respondents:* 390.
- *Average Responses per Respondent:* 12 (monthly).
- *Number of Responses:* 4,680.
- *Average per Response Burden:* 1 hour (½ hour of recordkeeping and ½ hour of reporting).
- *Total Burden:* 4,680 hours.

OMB Control No. 1513–0060

Title: Letterhead Applications and Notices Relating to Tax-Free Alcohol (TTB REC 5150/04).

TTB Recordkeeping Number: REC 5150/04.

Abstract: The IRC at 26 U.S.C. 5214 provides for the tax-free withdrawal of distilled spirits from a DSP for certain nonbeverage purposes, including for use by educational institutions, laboratories, hospitals, clinics, and blood banks, and by State, local, and tribal governments, subject to regulations prescribed by the Secretary. Under that authority, the TTB regulations in 27 CFR part 22 require users of tax-free alcohol to submit certain letterhead applications and notices, which serve as qualifying documents for specific regulated activities or as amendments to previously-filed documents. The collected information is necessary to protect the revenue and ensure compliance with Federal laws and regulations regarding tax-free alcohol as it allows TTB to detect diversion of tax-free alcohol to taxable beverage use and ensure lawful use of such alcohol. In general, activities posing a greater jeopardy to the revenue require a letterhead application and TTB approval before the respondent begins the activity, while activities posing less jeopardy to the revenue require a letterhead notice stating that the respondent will undertake the activity.

Current Actions: TTB is submitting this information collection for extension purposes only, and there are no changes to it or its estimated burden.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses and other for-profits; Not-for-profit institutions; State, local, and tribal governments.

Estimated Annual Burden

- *Number of Respondents:* 400.
- *Average Responses per Respondent:* 1 (on occasion).
- *Number of Responses:* 400.
- *Average per Response Burden:* 30 minutes.
- *Total Burden:* 200 hours.

OMB Control No. 1513–0066

Title: Retail Liquor Dealers Records of Receipts of Alcoholic Beverages and

Commercial Invoices (TTB REC 5170/03).

TTB Recordkeeping Number: REC 5170/03.

Abstract: The IRC at 26 U.S.C. 5122 requires retail alcohol beverage dealers to keep records, in the form of books or commercial invoices, showing all distilled spirits, wines, and beer received, and it authorizes the Secretary to issue regulations to require such dealers to keep disposition records for those products for law enforcement or revenue protection purposes. In addition, 26 U.S.C. 5123 requires such dealers to maintain those records at their places of business, available for Government inspection during business hours, as prescribed by regulation. Under those IRC authorities, the TTB regulations in 27 CFR part 31 require retail alcohol beverage dealers to keep records showing the quantity of all distilled spirits, wines, and beer they receive, along with the date and from who the products were received, as well as records of all sales of such products of 20 or more wine gallons made to the same person at the same time. In addition, the regulations require such dealers to maintain the required records and any related supporting documents for at least 3 years at their places of business or other TTB-approved locations, subject to TTB inspection during business hours. This information collection is necessary to ensure compliance with Federal law. The recordkeeping requirement consists of usual and customary invoices and sales receipts that would be kept in the normal course of business.

Current Actions: TTB is submitting this information collection for extension purposes only, and the collection and its estimated burden remain unchanged.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses and other for-profits; State, local, and tribal governments.

Estimated Annual Burden

- *Number of Respondents:* 455,000.
- *Average Responses per Respondent:* 1 (ongoing recordkeeping).
- *Number of Responses:* 455,000.
- *Average per Response Burden:* None.
- *Total Burden:* None. (Per 5 CFR 1320.3(b)(2), there is no burden associated with the collection of usual of customary records kept during the normal course of business.)

OMB Control No. 1513–0067

Title: Wholesale Alcohol Dealer Recordkeeping Requirement Variance Requests and Approvals (TTB REC 5170/6).

TTB Recordkeeping Number: REC 5170/6.

Abstract: Under the authority of the IRC at 26 U.S.C. 5121, the TTB regulations in 27 CFR part 31 require wholesale alcohol dealers to keep records of the receipt and disposition of distilled spirits, subject to regulations prescribed by the Secretary. As authorized in the TTB regulations in 27 CFR part 31, wholesale alcohol dealers may submit letterhead applications to TTB requesting approval of variations in the type and format of such records, and for variations in the place of retention for those records. TTB review of such applications is necessary to determine that the variance would not jeopardize the revenue, be contrary to any provisions of law, or unduly hinder the effective administration of the relevant TTB regulations.

Current Actions: TTB is submitting this information collection for extension purposes only, and the collection and its estimated burden remain unchanged.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses and other for-profits.

Estimated Annual Burden

- *Number of Respondents:* 10.
- *Average Responses per Respondent:* 1 (on occasion).
- *Number of Responses:* 10.
- *Average per Response Burden:* 30 minutes.
- *Total Burden:* 5 hours.

OMB Control No. 1513–0082

Title: Alternate Methods or Procedures and Emergency Variations from Requirements for Exports of Liquors (TTB REC 5170/7).

TTB Recordkeeping Number: REC 5170/7.

Abstract: The IRC at 26 U.S.C. 7805 authorizes the Secretary to issue all needful regulations to implement the IRC. Under that authority, the TTB regulations in 27 CFR part 28 alcohol allow exporters to apply for prior TTB approval of alternate methods or procedures to, or emergency variances from, the requirements of that part, other than the giving of a bond or the payment of tax. TTB review of such applications is necessary to determine that the proposed alternative or variance would not jeopardize the revenue, be contrary to any provisions of law, or unduly hinder the effective administration of the relevant TTB regulations.

Current Actions: TTB is submitting this information collection for extension purposes only, and the collection and its estimated burden remain unchanged.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses and other for-profits.

Estimated Annual Burden

- *Number of Respondents:* 230.
- *Average Responses per Respondent:* 1 (on occasion).
- *Number of Responses:* 230.
- *Average per Response Burden:* 36 minutes.
- *Total Burden:* 138 hours.

OMB Control No. 1513–0093

Title: Application for Extension of Time for Payment of Tax.

TTB Form Number: TTB F 5600.38.

Abstract: The IRC at 26 U.S.C. 6161 authorizes the Secretary to grant taxpayers up to 6 months of additional time to pay taxes on any return required under the IRC. Under that authority, TTB has issued TTB F 5600.38, which taxpayers complete to apply for an extension of time to pay taxes collected by TTB. The respondent uses that form to identify the tax payment for which an extension is requested and explain the reasons why the payment cannot be made on time. TTB evaluates the information provided on the form and in any attachments, and it notifies the taxpayer of its decision by returning a copy of the approved or disapproved form to the taxpayer.

Current Actions: TTB is submitting this information collection for extension purposes only, and there are no changes to the collection, its related form, or its estimated burden.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses and other for-profits.

Estimated Annual Burden

- *Number of Respondents:* 30.
- *Average Responses per Respondent:* 1 (on occasion).
- *Number of Responses:* 30.
- *Average per Response Burden:* 15 minutes.
- *Total Burden:* 7.5 hours.

OMB Control No. 1513–0097

Title: Notices Relating to Payment of Firearms and Ammunition Excise Tax by Electronic Fund Transfer.

Abstract: Under the IRC at 26 U.S.C. 6302, TTB collects the firearms and ammunition excise tax (FAET) imposed by 26 U.S.C. 4181 on the basis of a return that taxpayers file quarterly. Section 6302 also authorizes the Secretary to issue regulations concerning the payment of taxes by

electronic funds transfer (EFT). Under the TTB regulations, taxpayers who elect to begin or discontinue payment of those taxes by EFT must furnish a written notice to TTB regarding such actions. TTB uses that information to anticipate and monitor FAET payment to ensure compliance with Federal law.

Current Actions: TTB is submitting this information collection for extension purposes only, and the collection and its estimated burden remain unchanged.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses or other for-profits.

Estimated Annual Burden

- *Number of Respondents:* 10.
- *Average Responses per Respondent:* 1 (on occasion).
- *Number of Responses:* 10.
- *Average per Response Burden:* 6 minutes.
- *Total Burden:* 1 hour.

OMB Control No. 1513–0098

Title: Supporting Data for Nonbeverage Drawback Claims.

TTB Form Number: TTB F 5154.2.

Abstract: Under the IRC at 26 U.S.C. 5111–5114 and 7652(g), persons using distilled spirits to produce medicines, medicinal preparations, food products, flavors, flavoring extracts, or perfume may claim drawback (refund) of all but $1.00 per proof gallon of the Federal excise tax paid on spirits used to make such nonbeverage products, subject to regulations prescribed by the Secretary. As required by the TTB regulations, to support nonbeverage product drawback claims, respondents report certain data regarding the spirits used and the products produced. Collection of this information is necessary to protect the revenue as it allows TTB to verify the validity of excise tax claims.

Current Actions: TTB is submitting this information collection for extension purposes only, and there are no changes to the collection or its related form. However, due to change in agency estimates resulting from an increase in the number of nonbeverage product drawback claims received, TTB is increasing the number of annual respondents, responses, and burden hours reported for this information collection.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses or other for-profits.

Estimated Annual Burden

- *Number of Respondents:* 550.
- *Average Responses per Respondent:* 6 (on occasion).
- *Number of Responses:* 3,300.
- *Average per Response Burden:* 58 minutes.
- *Total Burden:* 3,190 hours.

OMB Control No. 1513–0100

Title: Applications, Notices, and Records Relative to Importation and Exportation of Distilled Spirits, Wines, and Beer, Including Puerto Rico and the U.S. Virgin Islands.

Abstract: Chapter 51 of the IRC imposes Federal excise taxes on alcohol beverages imported into the United States. Such products shown to be exported from the United States are not taxed. In addition, under the IRC at 26 U.S.C. 7652, such products of Puerto Rican manufacture brought into the United States for consumption or sale and those coming into the United States from the U.S. Virgin Islands are subject to tax equal to the tax imposed in the United States on like products, although, under that section, most of the taxes collected on such products are returned to the treasuries of the two governments. Under those authorities, the TTB regulations in 27 parts 26, 27, and 28 require persons exporting or importing alcohol beverages from Puerto Rico and the U.S. Virgin Islands to file certain letterhead applications and notices, and to keep certain records, regarding such activities. The collected information is necessary to protect the revenue and ensure compliance with Federal laws and regulations. For alcohol beverages exported or imported from Puerto Rico or the U.S. Virgin Islands, the required information allows TTB to trace shipments of such products, verify excise tax payments and claims for refunds, and calculate payments due to the treasuries of Puerto Rico and the U.S. Virgin Islands.

Current Actions: TTB is submitting this information collection for extension purposes only, and the collection and its estimated burden remain unchanged.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses and other for-profits.

Estimated Annual Burden

- *Number of Respondents:* 20.
- *Average Responses per Respondent:* 1 (on occasion).
- *Number of Responses:* 20.
- *Average per Response Burden:* 9 hours.
- *Total Burden:* 180 hours.

OMB Control No. 1513–0104

Title: Information Collected in Support of the Small Producer's Wine Credit (TTB REC 5120/11).

TTB Recordkeeping Number: REC 5120/11.

Abstract: Under the IRC at 26 U.S.C. 5041(c), certain small wine producers are eligible for a tax credit which may be taken to reduce the Federal excise tax they pay on wines (including hard ciders) removed from their premises during a calendar year. In addition, except during the period of time that such provisions in section 5041 are suspended by the Tax Cuts and Jobs Act (Pub. L. 115–97), small producers can transfer their tax credit to bonded warehouses that store their wine and ship it on their instructions. Under the TTB regulations, the transferee uses information provided by the small producer to take the appropriate tax credit on behalf of the producer, and the producer uses the information to monitor its own tax payments to ensure it does not exceed the authorized annual credit. To protect the revenue, TTB uses the collected information to verify excise tax computations, and to ensure that wines claimed for this credit were produced, stored, shipped, and transferred according to Federal laws and regulations.

Current Actions: TTB is submitting this information collection for extension purposes only, and the collection and its estimated burden remain unchanged.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses or other for-profits.

Estimated Annual Burden

- *Number of Respondents:* 280.
- *Average Responses per Respondent:* 10 (on occasion).
- *Number of Responses:* 2,800.
- *Average per Response Burden:* 1 hour.
- *Total Burden:* 2,800 hours.

OMB Control No. 1513–0106

Title: Record of Operations—Importer of Tobacco Products or Processed Tobacco.

Abstract: The IRC at 26 U.S.C. 5741 requires all manufacturers and importers of tobacco products, processed tobacco, or cigarette papers and tubes, and all export warehouse proprietors to keep records as the Secretary prescribes by regulation, subject to government inspection during business hours. Under that authority, the TTB regulations in 27 CFR part 41 require importers of tobacco products or processed tobacco to maintain the usual and customary records kept during the normal course of business showing the receipt and disposition of imported tobacco products or processed tobacco. The collected information is necessary to protect the revenue as it allows TTB to verify that the appropriate Federal

excise taxes are paid on imported tobacco products, and it allows TTB to detect diversion of processed tobacco, which is not taxed, to taxable tobacco product manufacturing.

Current Actions: TTB is submitting this information collection for extension purposes only and there are no changes to the collection. However, due to an increase in the number of tobacco importers holding TTB permits, TTB is increasing the number of annual respondents, responses, and burden hours reported for this information collection.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses and other for-profits.

Estimated Annual Burden

- *Number of Respondents:* 495.
- *Average Responses per Respondent:* 1 (ongoing recordkeeping).
- *Number of Responses:* 495.
- *Average per Response Burden:* None.
- *Total Burden:* None. (Per 5 CFR 1320.3(b)(2), there is no burden associated with the collection of usual of customary records kept during the normal course of business.)

Dated: March 21, 2019.

Amy R. Greenberg,

Director, Regulations and Rulings Division.

[FR Doc. 2019–05900 Filed 3–27–19; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8912

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 general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. Currently, the IRS is soliciting comments concerning Form 8912, Credit to Holders of Tax Credit Bonds.

DATES: Written comments should be received on or before May 28, 2019 to be assured of consideration.

ADDRESSES: Direct all written comments to Laurie Brimmer, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the revenue procedure should be directed to LaNita Van Dyke at (202) 317–6009, at Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or through the internet, at *Lanita.VanDyke@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Credit to Holders of Tax Credit Bonds.

OMB Number: 1545–2025.

Form Number: 8912.

Abstract: Form 8912, Credit to Holders of Tax Credit Bonds, was developed to carry out the provisions of Internal Revenue Code sections 54 and 1400N(l). The form provides a means for the taxpayer to claim the credit for the following tax credit bonds: Clean renewable energy bond (CREB), New clean renewable energy bond (NCREB), Qualified energy conservation bond (QECB), Qualified zone academy bond (QZAB), Qualified school construction bond (QSCB), and Build America bond (BAB).

Current Actions: There is no change to this form.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses and other for-profit organizations, Farms.

Estimated Number of Responses: 500.

Estimated Time per Response: 13 hours, 47 minutes.

Estimated Total Annual Burden Hours: 6,890 hours.

The following paragraph applies to all of 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 as long as 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.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the 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 collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: March 25, 2019.

Laurie Brimmer,

Senior Tax Analyst.

[FR Doc. 2019–05945 Filed 3–27–19; 8:45 am]

BILLING CODE 4830–01–P

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The President

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Notice of March 26, 2019—Continuation of the National Emergency With Respect to Significant Malicious Cyber-Enabled Activities

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Title 3—

The President

Proclamation 9852 of March 25, 2019

Recognizing the Golan Heights as Part of the State of Israel

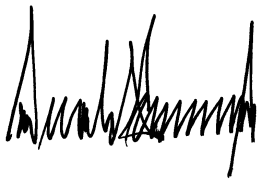
By the President of the United States of America

A Proclamation

The State of Israel took control of the Golan Heights in 1967 to safeguard its security from external threats. Today, aggressive acts by Iran and terrorist groups, including Hizballah, in southern Syria continue to make the Golan Heights a potential launching ground for attacks on Israel. Any possible future peace agreement in the region must account for Israel's need to protect itself from Syria and other regional threats. Based on these unique circumstances, it is therefore appropriate to recognize Israeli sovereignty over the Golan Heights.

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 that, the United States recognizes that the Golan Heights are part of the State of Israel.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-fifth 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.



[FR Doc. 2019–06199
Filed 3–27–19; 11:15 am]
Billing code 3295–F9–P

Presidential Documents

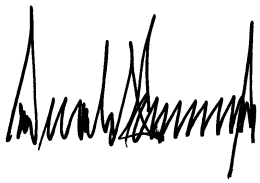
Notice of March 26, 2019

Continuation of the National Emergency With Respect to Significant Malicious Cyber-Enabled Activities

On April 1, 2015, by Executive Order 13694, the President declared a national emergency pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701–1706) to deal with the unusual and extraordinary threat to the national security, foreign policy, and economy of the United States constituted by the increasing prevalence and severity of malicious cyber-enabled activities originating from, or directed by persons located, in whole or in substantial part, outside the United States. On December 28, 2016, the President issued Executive Order 13757 to take additional steps to address the national emergency declared in Executive Order 13694.

These significant malicious cyber-enabled activities continue to pose an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States. For this reason, the national emergency declared on April 1, 2015, must continue in effect beyond April 1, 2019. Therefore, in accordance with section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)), I am continuing for 1 year the national emergency declared in Executive Order 13694, as amended by Executive Order 13757.

This notice shall be published in the *Federal Register* and transmitted to the Congress.



THE WHITE HOUSE,
March 26, 2019.

[FR Doc. 2019–06200
Filed 3–27–19; 11:15 am]
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